

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

*Please inform the Drinking Water Program of any omissions or corrections so that they can be addressed in subsequent updates.*

## **Water Code**

### **DIVISION 1. GENERAL STATE POWERS OVER WATER**

#### **CHAPTER 1. GENERAL STATE POLICY**

##### **Section 110. Water meters**

(a) Notwithstanding any other provision of law, every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person shall require, as a condition of new water service on and after January 1, 1992, that a suitable water meter to measure the water service shall be installed on the water service facilities in accordance with Chapter 8 (commencing with Section 500). The cost of installation of the meter shall be paid by the user of the water, and any water purveyor may impose and collect charges for those costs.

(b) For purposes of subdivision (a), "water purveyor," "person," "water service," and "water meter" have the same meaning as defined in Article 2 (commencing with Section 510) of Chapter 8.

(c) Subdivision (a) applies only to potable water.

(d) Subdivision (a) does not apply to a community water system which serves less than 15 service connections used by yearlong residents or regularly serves less than 25 yearlong residents, or a single well which services the water supply of a single family residential home.

##### **111. Requirements for water meters for supplier receiving federal CVP water**

(a) Notwithstanding any other provision of law, any urban water supplier that, on or after January 1, 2004, receives water from the federal Central Valley Project under a water service contract or subcontract executed pursuant to Section 485h(c) of Title 43 of the United States Code with the Bureau of Reclamation of the United States Department of the Interior shall do both of the following:

(1) On or before January 1, 2013, install water meters on all service connections to residential and nonagricultural commercial buildings constructed prior to January 1, 1992, located within its service area.

(2) On and after March 1, 2013, or according to the terms of the Central Valley Project water contract in operation, charge customers for water based on the actual volume of deliveries, as measured by a water meter.

(b) An urban water supplier that receives water from the federal Central Valley Project under a water service contract or subcontract consistent with subdivision (a) may recover the cost of providing services related to the purchase, installation, and operation and maintenance of water meters from rates, fees, or charges.

(c) This section, which ensures the ability of certain urban water suppliers to meet the water supply needs of their customers, addresses a subject matter of statewide concern and applies to all counties and cities, including charter counties and charter cities, and local public agencies that are urban water suppliers that are described in subdivision (a).

(d) For the purposes of this section, "urban water supplier" shall have the same meaning as set forth in Section 10617 and "water meter" shall have the same meaning as set forth in Section 110.

## **CHAPTER 3. WATER SHORTAGE EMERGENCIES**

### **Section 350. Declaration**

The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

### **Section 351. Hearing**

Excepting in event of a breakage or failure of a dam, pump, pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such water supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.

### **Section 352. Notice**

Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government Code at least seven days prior to the date of hearing in a newspaper printed,

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

published, and circulated within the area in which the water supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.

### **Section 353. Regulation authority**

When the governing body has so determined and declared the existence of an emergency condition of water shortage within its service area, it shall thereupon adopt such regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will in the sound discretion of such governing body conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection.

### **Section 354. Priorities authority**

After allocating and setting aside the amount of water which in the opinion of the governing body will be necessary to supply water needed for domestic use, sanitation, and fire protection, the regulations may establish priorities in the use of water for other purposes and provide for the allocation, distribution, and delivery of water for such other purposes, without discrimination between consumers using water for the same purpose or purposes.

### **Section 355. Duration of regulations and restrictions**

The regulations and restrictions shall thereafter be and remain in full force and effect during the period of the emergency and until the supply of water available for distribution within such area has been replenished or augmented.

### **Section 356. Moratorium authority**

The regulations and restrictions may include the right to deny applications for new or additional service connections, and provision for their enforcement by discontinuing service to consumers wilfully violating the regulations and restrictions.

### **Section 357. Supersedes other law except P.U.C.**

If the regulations and restrictions on delivery and consumption of water adopted pursuant to this chapter conflict with any law establishing the rights of individual consumers to receive either specific or proportionate amounts of the water supply available for distribution within such service area, the regulations and restrictions adopted pursuant to this chapter shall prevail over the provisions of such laws relating to water rights for the duration of the period of emergency; provided, however, that any distributor of water which is subject to regulation by the State Public Utilities Commission shall before

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

making such regulations and restrictions effective secure the approval thereof by the Public Utilities Commission.

### **Section 358. Judicial review**

Nothing in this chapter shall be construed to prohibit or prevent review by any court of competent jurisdiction of any finding or determination by a governing board of the existence of an emergency or of regulations or restrictions adopted by such board, pursuant to this chapter, on the ground that any such action is fraudulent, arbitrary, or capricious.

### **Section 359. Drought relief loans**

Notwithstanding any other provision of law which requires an election for the purpose of authorizing a contract with the United States, or for incurring the obligation to repay loans from the United States, and except as otherwise limited or prohibited by the Constitution of the State of California, a public water agency may, as an alternative procedure to submitting the proposal to an election, upon affirmative vote of four-fifths of the members of the governing body thereof, apply for, accept, provide for the repayment together with interest thereon, and use funds made available by the federal government pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 which specifically provides emergency drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance, and may enter into such contracts as are required to obtain such federal funds pursuant to the provisions of such federal acts; provided the following conditions exist:

- (a) The project is undertaken by state, regional, or local governmental agency.
- (b) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.
- (c) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.
- (d) The agency affirms that it will comply, if applicable, to Sections 1601, 1602, and 1603 of the Fish and Game Code.
- (e) The project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

Any obligation to repay loans shall be expressly limited to revenues of the system improved by the proceeds of the contract.

No application for such federal funds pursuant to the authority of this section shall be made on or after March 1, 1978.

Notwithstanding the provisions of this section, a public agency shall not be exempt from any provision of law which requires the submission of such proposal to an election if a petition requesting such an election signed by 10 percent of the registered voters within the public agency is presented to the governing board within 30 days following the submission of an application for such federal funds.

Notwithstanding the provisions of this section, a public water agency which applied for federal funds for a project prior to January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in subdivision (e). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in subdivision (e) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

For the purposes of this section, "public water agency" means a city, district, agency, authority, or any other political subdivision of the state, except the state, which distributes water to the inhabitants thereof, which is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and which is otherwise required by law to submit such agreements or contracts or any other project involving long-term debt to an election within such public water agency.

## **CHAPTER 3.5. WATER CONSERVATION PROGRAMS**

### **Section 375. Procedures**

(a) Notwithstanding any other provision of the law, any public entity which supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) With regard to water delivered for other than agricultural uses, the ordinance or resolution may specifically require the installation of water-saving devices which are designed to reduce water consumption. The ordinance or resolution may also encourage water conservation through rate structure design.

(c) For the purposes of this section, "public entity" means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state.

#### **Section 375.5. Water conservation and public education programs**

(a) A public entity, as defined by Section 375, may undertake water conservation and public education programs in conjunction with school districts, public libraries, or any other public entity.

(b) A public entity may take into account any programs undertaken pursuant to this section in a rate structure design implemented pursuant to Section 375.

(c) The Legislature finds and declares that a program undertaken pursuant to this section is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the people of the State.

#### **Section 376. Publication**

Any ordinance or resolution adopted pursuant to Section 375 is effective upon adoption. Within 10 days after its adoption, the ordinance or resolution shall be published pursuant to Section 6061 of the Government Code in full in a newspaper of general circulation which is printed, published, and circulated in the district. If there is no such newspaper the ordinance or resolution shall be posted within 10 days after its adoption in three public places within the district.

#### **Section 377. Violations**

From and after the publication or posting of any ordinance or resolution pursuant to Section 376, violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. Upon conviction thereof such person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding one thousand dollars (\$ 1,000), or by both.

#### **Section 378. Water conservation programs**

A public entity may enter into agreements with other public entities, businesses, community associations, or private entities to provide water conservation services and

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

measures and materials for implementing water conservation programs adopted pursuant to this chapter.

## **DIVISION 7. WATER QUALITY**

### **CHAPTER 2. DEFINITIONS**

#### **Section 13050. Terms used in this division**

As used in this division:

- (a) "State board" means the State Water Resources Control Board.
- (b) "Regional board" means any California regional water quality control board for a region as specified in Section 13200.
- (c) "Person" includes any city, county, district, the state, and the United States, to the extent authorized by federal law.
- (d) "Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- (e) "Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state.
- (f) "Beneficial uses" of the waters of the state that may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.
- (g) "Quality of the water" refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.
- (h) "Water quality objectives" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.
- (i) "Water quality control" means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(j) "Water quality control plan" consists of a designation or establishment for the waters within a specified area of all of the following:

- (1) Beneficial uses to be protected.
- (2) Water quality objectives.
- (3) A program of implementation needed for achieving water quality objectives.

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(l) (1) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

- (A) The waters for beneficial uses.
- (B) Facilities which serve these beneficial uses.

(2) "Pollution" may include "contamination."

(m) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

(n) "Recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource.

(o) "Citizen or domiciliary" of the state includes a foreign corporation having substantial business contacts in the state or which is subject to service of process in this state.

(p) (1) "Hazardous substance" means either of the following:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



(A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(B) For discharge to groundwater, any substance listed as a hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether the substance is intended to be used, reused, or discarded, except that "hazardous substance" does not include any substance excluded from Section 311 (b)(2) of the Federal Water Pollution Control Act because it is within the scope of Section 311(a)(1) of that act.

(2) "Hazardous substance" does not include any of the following:

(A) Nontoxic, nonflammable, noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.

(B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.

(C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311(b)(4) of the Federal Water Pollution Control Act.

(D) Any discharge to land which results, or probably will result, in a discharge to groundwater if the amount of the discharge to land is less than a reportable quantity, as determined by regulations issued pursuant to Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.

(q) (1) "Mining waste" means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Section 2732 of the Public Resources Code, and tailings, slag, and other processed waste materials, including cementitious materials that are managed at the cement manufacturing facility where the materials were generated.

(2) For the purposes of this subdivision, "cementitious material" means cement, cement kiln dust, clinker, and clinker dust.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(r) "Master recycling permit" means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water recycling requirements prescribed pursuant to Section 13523.1.

#### **Section 13051. Injection well**

As used in this division, "injection well" means any bored, drilled, or driven shaft, dug pit, or hole in the ground into which waste or fluid is discharged, and any associated subsurface appurtenances, and the depth of which is greater than the circumference of the shaft, pit, or hole.

#### **Section 13169. Groundwater protection program**

(a) The state board is authorized to develop and implement a groundwater protection program as provided under the Safe Drinking Water Act, Section 300 and following of Title 42 of the United States Code, and any federal act that amends or supplements the Safe Drinking Water Act. The authority of the state board under this section includes, but is not limited to, the following:

(1) To apply for and accept state groundwater protection grants from the federal government.

(2) To take any additional action as may be necessary or appropriate to assure that the state's groundwater protection program complies with any federal regulations issued pursuant to the Safe Drinking Water Act or any federal act that amends or supplements the Safe Drinking Water Act.

(b) Nothing in this section is intended to expand the authority of the state board as authorized under the Porter-Cologne Water Quality Control Act (Div. 7 (commencing with Sec. 13000) Wat. C.).

#### **Section 13271. Discharge of hazardous waste**

(a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as

(1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(2) The Office of Emergency Services shall immediately notify the appropriate regional board and the local health officer and administrator of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to paragraph (2), the local health officer and administrator of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and administrator of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) shall

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f) (1) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, "sewage" means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(2) A collection system owner or operator, as defined in paragraph (1) of subdivision (a) of Section 13193, in addition to the reporting requirements set forth in this section, shall submit a report pursuant to subdivision (c) of Section 13193.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the Office of Emergency Services, the person shall include all of the notification information required in the permit.

(h) For the purposes of this section, the reportable quantity for perchlorate shall be 10 pounds or more by discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted pursuant to subdivision (e).

#### **Section 13272. Petroleum discharge list**

(a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup of other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state oil spill contingency plan adopted pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code. This section shall not apply to spills of oil into marine waters as defined in subdivision (f) of Section 8670.3 of the Government Code.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for each day of failure to notify, or imprisonment of not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state. This subdivision shall not apply to any person who is fined by the federal government for a failure to report a discharge of oil.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) Immediate notification to the appropriate regional board of the discharge, in accordance with reporting requirements set under Section 13267 or 13383, shall constitute compliance with the requirements of subdivision (a).

(f) The reportable quantity for oil or petroleum products shall be one barrel (42 gallons) or more, by direct discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted.

#### **Section 13272.1. MTBE discharge list**

Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.

#### **Section 13274. Public water system rights**

(a) Notwithstanding any other provision of law, any public water system regulated by the State Department of Health Services shall have the same legal rights and remedies against a responsible party, when the water supply used by that public water system is contaminated, as those of a private land owner whose groundwater has been contaminated.

(b) For purposes of this section, "responsible party" has the same meaning as defined in Section 25323.5 of the Health and Safety Code.

#### **Section 13285. Methyl tertiary butyl ether (MTBE) Cleanup**

(a) Any discharge from a storage tank, pipeline, or other container of methyl tertiary-butyl ether (MTBE), or of any pollutant that contains MTBE, that poses a threat to drinking water, or to groundwater or surface water that may reasonably be used for

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

drinking water, or to coastal waters shall be cleaned up to a level consistent with subdivision (b) of Section 25299.37 of the Health and Safety Code.

(b) (1) No public water system, or its customers, shall be responsible for remediation or treatment costs associated with MTBE, or a product that contains MTBE, provided, however, that the public water system shall be permitted as necessary to incur MTBE remediation and treatment costs and to include those costs in its customer rates and charges, necessary to comply with drinking water standards or directives of the State Department of Health Services or other lawful authority. Any public water system that incurs MTBE remediation or treatment costs may seek recovery of those costs from parties responsible for the MTBE contamination, or from other available alternative sources of funds.

(2) If the public water system has included the costs of MTBE treatment and remediation in its customer rates and charges, and subsequently recovers all or a portion of its MTBE treatment and remediation costs from responsible parties or other available alternative sources of funds, it shall make an adjustment to its schedule of rates and charges to reflect the amount of funding received from responsible parties or other available alternative sources of funds for MTBE treatment or remediation.

(3) Paragraph (1) shall not prevent the imposition of liability on any person for the discharge of MTBE if that liability is due to the conduct or status of that person independently of whether the person happens to be a customer of the public water system.

#### **Section 13304. Cleanup of discharged waste**

(a) Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) (1) The regional board may expend available money to perform any cleanup, abatement, or remedial work required under the circumstances set forth in subdivision (a), including, but not limited to, supervision of cleanup and abatement activities that, in its judgment, is required by the magnitude of the endeavor or the urgency for prompt action to prevent substantial pollution, nuisance, or injury to any waters of the state. The action may be taken in default of, or in addition to, remedial work by the waste discharger or other persons, and regardless of whether injunctive relief is being sought.

(2) The regional board may perform the work itself, or with the cooperation of any other governmental agency, and may use rented tools or equipment, either with operators furnished or unoperated. Notwithstanding any other provisions of law, the regional board may enter into oral contracts for the work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. The contracts are not subject to approval by the Department of General Services.

(3) The regional board shall be permitted reasonable access to the affected property as necessary to perform any cleanup, abatement, or other remedial work. The access shall be obtained with the consent of the owner or possessor of the property or, if the consent is withheld, with a warrant duly issued pursuant to the procedure described in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting public health or safety, the regional board may enter the property without consent or the issuance of a warrant.

(4) The regional board may contract with a water agency to perform, under the direction of the regional board, investigations of existing or threatened groundwater pollution or nuisance. The agency's cost of performing the contracted services shall be reimbursed by the regional board from the first available funds obtained from cost recovery actions for the specific site. The authority of a regional board to contract with a water agency is limited to a water agency that draws groundwater from the affected aquifer, a metropolitan water district, or a local public agency responsible for water supply or water quality in a groundwater basin.

(c) (1) If the waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial action. The amount of the costs is recoverable in a civil action by, and paid to, the governmental agency and the state board to the extent of the latter's contribution to the cleanup costs from the State Water Pollution Cleanup and Abatement Account or other available funds.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(2) The amount of the costs constitutes a lien on the affected property upon service of a copy of the notice of lien on the owner and upon the recordation of a notice of lien, that identifies the property on which the condition was abated, the amount of the lien, and the owner of record of the property, in the office of the county recorder of the county in which the property is located. Upon recordation, the lien has the same force, effect, and priority as a judgment lien, except that it attaches only to the property posted and described in the notice of lien, and shall continue for 10 years from the time of the recording of the notice, unless sooner released or otherwise discharged. Not later than 45 days after receiving a notice of lien, the owner may petition the court for an order releasing the property from the lien or reducing the amount of the lien. In this court action, the governmental agency that incurred the cleanup costs shall establish that the costs were reasonable and necessary. The lien may be foreclosed by an action brought by the state board on behalf of the regional board for a money judgment. Money recovered by a judgment in favor of the state board shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(d) If, despite reasonable effort by the regional board to identify the person responsible for the discharge of waste or the condition of pollution or nuisance, the person is not identified at the time cleanup, abatement, or remedial work is required to be performed, the regional board is not required to issue an order under this section.

(e) "Threaten," for purposes of this section, means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

(f) Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state, and local drinking water standards, and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste.

(g) (1) Any public water supplier or private well owner receiving replacement water by reason of an order issued pursuant to subdivision (a), or any person or entity who is ordered to provide replacement water pursuant to subdivision (a), may request nonbonding mediation of all replacement water claims.

(2) If so requested, the public water suppliers receiving the replacement water and the persons or entities ordered to provide the replacement water, within 30 days of the submittal of a water replacement plan, shall engage in at least one confidential settlement discussion before a mutually acceptable mediator.

(3) Any agreement between parties regarding replacement water claims resulting from participation in the nonbinding mediation process shall be consistent with the requirements of any cleanup and abatement order.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



(4) A regional board or the state board is not required to participate in any nonbinding mediation requested pursuant to paragraph (1).

(5) The party or parties requesting the mediation shall pay for the costs of the mediation.

(h) As part of any cleanup and abatement order that requires the provision of replacement water, a regional board or the state board shall request a water replacement plan from the discharger in cases where replacement water is to be provided for more than 30 days. The water replacement plan is subject to the approval of the regional board or the state board prior to its implementation.

(i) A "water replacement plan" means a plan pursuant to which the discharger will provide replacement water in accordance with a cleanup and abatement order.

(j) This section does not impose any new liability for acts occurring before January 1, 1981, if the acts were not in violation of existing laws or regulations at the time they occurred.

(k) Nothing in this section limits the authority of any state agency under any other law or regulation to enforce or administer any cleanup or abatement activity.

(l) The Legislature declares that the amendments made to subdivision (a) of this section by Senate Bill 1004 of the 2003-04 Regular Session do not constitute a change in, but are declaratory of, existing law.

## CHAPTER 6. STATE FINANCIAL ASSISTANCE

### ARTICLE 1. STATE WATER QUALITY CONTROL FUND

#### **Section 13400. Definitions**

As used in this chapter, unless otherwise apparent from the context:

(a) "Fund" means the State Water Quality Control Fund.

(b) "Public agency" means any city, county, city and county, district, or other political subdivision of the state.

(c) "Facilities" means: (1) facilities for the collection, treatment, or export of waste when necessary to prevent water pollution, (2) facilities to recycle wastewater and to convey recycled water, (3) facilities or devices to conserve water, or (4) any combination of the foregoing.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

### **13401. Continuation of fund and appropriation**

(a) The State Water Quality Control Fund is continued in existence. The following moneys in the fund are appropriated, without regard to fiscal years, for expenditure by the state board in making loans to public agencies in accordance with this chapter:

(1) The balance of the original moneys deposited in the fund.

(2) Any money repaid to the fund.

(3) Any remaining balance of the money in the fund deposited therein after the specific appropriations for loans to the South Tahoe Public Utility District, the North Tahoe Public Utility District, the Tahoe City Public Utility District, the Truckee Sanitary District, and to any other governmental entity in the areas served by such districts have been made.

(b) Notwithstanding subdivision (a), upon the order of the state board, the money in the State Water Quality Control Fund shall be transferred to the State Water Pollution Control Revolving Fund.

## **ARTICLE 2. LOANS TO LOCAL AGENCIES**

### **Section 13410. Applications**

Applications for construction loans under this chapter shall include:

(a) A description of the proposed facilities.

(b) A statement of facts showing the necessity for the proposed facilities and showing that funds of the public agency are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible or would impose an unreasonable burden on the public agency.

(c) A proposed plan for repaying the loan.

(d) Other information as required by the state board.

### **Section 13411. Determination by the state board, after consultation with DHS**

Upon a determination by the state board, after consultation with the State Department of Health, that (a) the facilities proposed by an applicant are necessary to the health or welfare of the inhabitants of the state, (b) that the proposed facilities meet the needs of

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

the applicant, (c) that funds of the public agency are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible or would impose an unreasonable burden on the public agency, (d) that the proposed plan for repayment is feasible, (e) in the case of facilities proposed under Section 13400(c)(1) that such facilities are necessary to prevent water pollution, (f) in the case of facilities proposed under Section 13400(c)(2) that such facilities will produce recycled water and that the public agency has adopted a feasible program for use thereof, and (g) in the case of facilities proposed under Section 13400(c)(3) that such facilities are a cost effective means of conserving water, the state board, subject to approval by the Director of Finance, may loan to the applicant such sum as it determines is not otherwise available to the public agency to construct the proposed facilities.

#### **Section 13412. Requirement for repayment agreement**

No loan shall be made to a public agency unless it executes an agreement with the state board under which it agrees to repay the amount of the loan, with interest, within 25 years at 50 percent of the average interest rate paid by the state on general obligation bonds sold in the calendar year immediately preceding the year in which the loan agreement is executed.

#### **Section 13413. Special consideration for construction loans**

It is the policy of this state that, in making construction loans under this article, the state board should give special consideration to facilities proposed to be constructed by public agencies in areas in which further construction of buildings has been halted by order of the State Department of Health or a local health department, or both, or notice has been given that such an order is being considered; provided, however, that the public agencies designated in this section shall otherwise comply with and meet all requirements of other provisions of this chapter.

#### **Section 13414. Repayment**

All money received in repayment of loans under this chapter shall be paid to the State Treasurer and credited to the fund.

#### **Section 13415. Loans to public agencies**

(a) Loans may be made by the state board to public agencies to pay not more than one-half of the cost of studies and investigations made by such public agencies in connection with waste water reclamation.

(b) Not more than a total of two hundred thousand dollars (\$200,00) shall be loaned pursuant to this section in any fiscal year, and not more than fifty thousand dollars

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(\$50,000) shall be loaned to any public agency in any fiscal year pursuant to this section. In the event that less than two million dollars (\$2,000,000) is available in any fiscal year for loans under this article, then not more than 10 percent of the available amount shall be available for loans for studies and investigations pursuant to this section.

(c) Applications for such loans shall be made in such form, and shall contain such information, as may be required by the state board.

(d) Such loans shall be repaid within a period not to exceed 10 years, with interest at a rate established in the manner provided in Section 13412.

#### **Section 13416. Public agency election requirement**

Before a public agency may enter into a contract with the state board for a construction loan under this chapter, the public agency shall hold an election on the proposition of whether or not the public agency shall enter into the proposed contract and more than 50 percent of the votes cast at such election must be in favor of such proposition.

#### **Section 13417. Election procedure and requirements**

The election shall be held in accordance with the following provisions:

(a) The procedure for holding an election on the incurring of bonded indebtedness by such public agency shall be utilized for an election of the proposed contract as nearly as the same may be applicable. Where the law applicable to such agency does not contain such bond election procedure, the procedure set forth in the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) Part 1, Division 2, Title 5 of the Government Code), as it may now or hereafter be amended, shall be utilized as nearly as the same may be applicable.

(b) No particular form of ballot is required.

(c) The notice of the election shall include a statement of the time and place of the election, the purpose of the election, the general purpose of the contract, and the maximum amount of money to be borrowed from the state under the contract.

(d) The ballots for the election shall contain a brief statement of the general purpose of the contract substantially as stated in the notice of the election, shall state the maximum amount of money to be borrowed from the state under the contract, and shall contain the words "Execution of contract --Yes" and "Execution of contract--No."

(e) The election shall be held in the entire public agency except where the public agency proposes to contract with the state board on behalf of a specified portion, or of specified

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

portions of the public agency, in which case the election shall be held in such portion or portions of the public agency only.

#### **Section 13418. Tahoe moratorium**

Notwithstanding any provision of this chapter or any other provision of law, including, but not limited to, the provisions of Chapter 47 and 137 of the Statutes of 1966, First Extraordinary Session, Chapter 1679 of the Statutes of 1967, Chapter 1356 of the Statutes of 1969, and Chapter 920 of the Statutes of 1970, or the provisions of any existing loan contract entered into pursuant to this chapter or any other such provision of law, there shall be a two-year moratorium following the effective date of this section on that portion of the principal and interest payments otherwise required in repayment of funds heretofore loaned to the North Tahoe Public Utility District, the Tahoe City Public Utility District, the South Tahoe Public Utility District, the Truckee Sanitary District, the Squaw Valley County Water District, and the Alpine Springs County Water District pursuant to this chapter or any act of the Legislature authorizing a state loan for the purpose of permitting any such agency to construct necessary sewage and storm drainage facilities to prevent and control water pollution in the area served by such agency, equal in percentage, as determined by the Department of Finance, to the percentage of property tax revenues lost to the agency by reason of the adoption of Article XIII A of the California Constitution, unless moneys are otherwise available for such repayment from state allocations or the sale of bonds authorized on or before July 1, 1978, but unissued. The provisions of this section do not apply to any sums which are required to be repaid immediately or in accordance with an accelerated time schedule pursuant to a duly entered stipulated judgment between the State of California and the Tahoe City Public Utility District. Interest on loans shall accrue during the moratorium period and be repaid by the recipients of the loans, in addition to the normal principal and interest payments.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

## **ARTICLE 2.5. GUARANTEES FOR LOCAL AGENCY BONDS**

### **Section 13425. Applications**

Applications for guarantees for local agency bonds under this chapter shall include:

- (a) A description of the proposed facilities.
- (b) A financing plan for the proposed facilities, including the amount of debt and maximum term to maturity of the proposed local agency bond issue and identification of sources of revenue that will be dedicated to payment of principal and interest on the bonds.
- (c) Other information as required by the state board.

The state board may provide that the application may be combined with applications for any other source of funds administered by the state board.

### **Section 13426. Agreement for guarantee, after consultation with DHS**

The state board, subject to approval by the Director of Finance, may agree to provide a guarantee pursuant to this article for all or a specified part of the proposed local agency bond issue upon making, after consultation with the State Department of Health Services, all of the following determinations:

- (a) The facilities proposed by an applicant are necessary to the health or welfare of the inhabitants of the state and are consistent with water quality control plans adopted by regional boards.
- (b) The proposed facilities meet the needs of the applicant.
- (c) The proposed bond issue and plan repayment are sound and feasible.
- (d) In the case of facilities proposed under paragraph (2) of subdivision (c) of Section 13400, the facilities will produce recycled water and the applicant has adopted a feasible program for the use of the facilities. The state board may adopt criteria for ranking and setting priorities among applicants for those guarantees.

### **Section 13427. Requirement for agreements by applicant**

No guarantee shall be extended to any applicant unless it executes an agreement with the state board under which the applicant agrees to the following provisions:

- (a) To proceed expeditiously with, and complete, the proposed project.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (b) To commence operation of the project on completion, and to properly operate and maintain the work in accordance with applicable provisions of law.
- (c) To issue bonds and to levy fines, charges, assessments, or taxes to pay the principal of, and interest on, the bonds as described in the application.
- (d) To diligently and expeditiously collect those levies, including timely exercise of available legal remedies in the event of delinquency or default.
- (e) To act in accordance with such other provisions as the state board may require.

**Section 13428. Creation of fund**

Notwithstanding Section 13340 of the Government Code, the money in the Clean Water Bond Guarantee Fund, which is hereby created, is continuously appropriated to the state board without regard to fiscal years for the purposes of this chapter.

**Section 13429. Investment of money in fund**

Money in the Clean Water Bond Guarantee Fund not needed for making payments on guaranteed bonds pursuant to this chapter shall be invested pursuant to law. All proceeds of the investment shall be deposited in that fund to the extent permitted by federal law.

**Section 13430. Limitation on authorization to guarantee bonds**

The state board's authorization to guarantee bonds under this article shall be limited to bonds with a total principal amount of not more than 10 times the amount in the Clean Water Bond Guarantee Fund at the time the state board determines to extend each guarantee pursuant to Section 13426.

**Section 13431. Limitation on amount paid**

Under no circumstances shall the amount paid out as a result of bond guarantees extended pursuant to this article exceed the amount in the Clean Water Bond Guarantee Fund. This article does not express or imply any commitment by the state board or any other agency of the state to pay any money or levy any charge or tax or otherwise exercise its faith and credit on behalf of any local agency or bondholder beyond the funds in the Clean Water Bond Guarantee Fund.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 13432. Annual fee**

The state board may charge an annual fee not to exceed one-tenth of 1 percent of the principal amount of each bond issue that it guarantees for guarantee coverage. The state board may charge a lesser amount. The proceeds of any fee shall be paid into the Clean Water Bond Guarantee Fund.

**Section 13433. Requirement for Rules and Procedures**

The state board shall, by regulation, prescribe rules and procedures for all of the following:

- (a) To pay money from the Clean Water Bond Guarantee Fund to an insured local agency or bondholder in the event that the amount in the local agency's bond reserve fund falls below a minimum amount, or in the event of failure by the local agency to pay the principal of, or interest on, an insured bond issue on time, as the state board may require.
- (b) To require, by court action if necessary, a local agency to raise sewer service charges, levy additional assessments, collect charges or assessments, or foreclose or otherwise sell property as needed to prevent a reduction in the local agency's bond reserve fund, or to prevent default, or to collect funds to repay to the fund any payments made pursuant to subdivision (a).

**ARTICLE 3. STATE WATER POLLUTION CLEANUP AND ABATEMENT ACCOUNT**

**Section 13440. Establishment of fund**

There is in the State Water Quality Control Fund the State Water Pollution Cleanup and Abatement Account (hereinafter called the "account"), to be administered by the state board.

**Section 13441. Sources of payment into account; availability for expenditure**

There is to be paid into the account all moneys from the following sources:

- (a) All moneys appropriated by the Legislature for the account.
- (b) All moneys contributed to the account by any person and accepted by the state board.
- (c) One-half of all moneys collected by way of criminal penalty and all moneys collected civilly under any proceeding brought pursuant to any provision of this division.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



(d) All moneys collected by the state board for the account under Section 13304.

The first unencumbered five hundred thousand dollars (\$500,000) paid into the account in any given fiscal year is available without regard to fiscal years, for expenditure by the state board in accordance with the provisions of this article. The next unencumbered five hundred thousand dollars (\$500,000), or any portion thereof, deposited in any given fiscal year, is available for expenditure by the state board for the purposes of this article, subject to the provisions set forth in Section 28 of the Budget Act of 1984 (Chapter 258 of the Statutes of 1984). The next unencumbered one million dollars (\$1,000,000) deposited in the account in any given fiscal year is available for expenditure by the state board for the purposes of Section 13443. The remaining unencumbered funds deposited in the account in any given fiscal year is available without regard to fiscal years to the state board for expenditure for the purposes set forth in Section 13442.

#### **Section 13441.5. Transfer of moneys**

The State Treasurer, when requested by the state board and approved by the Director of Finance, shall transfer moneys in the nature of a loan from the State Water Quality Control Fund to the account created pursuant to Section 13440, which shall be repayable from the account to such fund; provided, that the moneys transferred from the fund to the account shall not exceed the sum of twenty-five thousand dollars (\$25,000) at any one time.

#### **Section 13442. Use of funding to assist in waste clean-up**

Upon application by a public agency with authority to clean up a waste or abate the effects thereof, the state board may order moneys to be paid from the account to the agency to assist it in cleaning up the waste or abating its effects on waters of the state. The agency shall not become liable to the state board for repayment of such moneys, but this shall not be any defense to an action brought pursuant to subdivision (b) of Section 13304 for the recovery of moneys paid hereunder.

#### **Section 13443. Use of funding for unforeseen significant water pollution**

Upon application by a regional board that is attempting to remedy a significant unforeseen water pollution problem, posing an actual or potential public health threat, or is overseeing and tracking the implementation of a supplemental environmental project required as a condition of an order imposing administrative civil liability, and for which the regional board does not have adequate resources budgeted, the state board may order moneys to be paid from the account to the regional board to assist it in responding to the problem.

### **CHAPTER 7. WATER RECLAMATION**

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

## ARTICLE 1. SHORT TITLE

### **13500. Title**

This chapter shall be known as and may be cited as the Water Recycling Law.

## ARTICLE 2. DECLARATION OF POLICY

### **Section 13510. Declaration**

It is hereby declared that the people of the state have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state.

### **Section 13511. Findings and declarations**

The Legislature finds and declares that a substantial portion of the future water requirements of this state may be economically met by beneficial use of recycled water.

The Legislature further finds and declares that the utilization of recycled water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife purposes will contribute to the peace, health, safety and welfare of the people of the state. Use of recycled water constitutes the development of "new basic water supplies" as that term is used in Chapter 5 (commencing with Section 12880) of Part 6 of Division 6.

### **Section 13512. Legislative intent**

It is the intention of the Legislature that the state undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing water requirements of the state.

## ARTICLE 3. STATE ASSISTANCE

### **Section 13515. Authority to provide loans**

In order to implement the policy declarations of this chapter, the state board is authorized to provide loans for the development of water reclamation facilities, or for studies and investigations in connection with water reclamation, pursuant to the provisions of Chapter 6 (commencing with Section 13400) of this division.

## ARTICLE 4. REGULATION OF RECLAMATION

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 13520. Recycling criteria**

As used in this article "recycling criteria" are the levels of constituents of recycled water, and means for assurance of reliability under the design concept which will result in recycled water safe from the standpoint of public health, for the uses to be made.

**Section 13521. Requirement for DHS to establish criteria**

The State Department of Health Services shall establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health.

**Section 13522. Abatement order by DHS or local health officer**

(a) Whenever the State Department of Health Services or any local health officer finds that a contamination exists as a result of the use of recycled water, the department or local health officer shall order the contamination abated in accordance with the procedure provided for in Chapter 6 (commencing with Section 5400) of Part 3 of Division 5 of the Health and Safety Code.

(b) The use of recycled water in accordance with the uniform statewide recycling criteria established pursuant to Section 13521, for the purpose of this section, does not cause, constitute, or contribute to, any form of contamination, unless the department or the regional board determines that contamination exists.

**Section 13522.5. Requirement for Reports**

(a) Except as provided in subdivision (e), any person recycling or proposing to recycle water, or using or proposing to use recycled water, within any region for any purpose for which recycling criteria have been established, shall file with the appropriate regional board a report containing information required by the regional board.

(b) Except as provided in subdivision (e), every person recycling water or using recycled water shall file with the appropriate regional board a report of any material change or proposed change in the character of the recycled water or its use.

(c) Each report under this section shall be sworn to, or submitted under penalty of perjury.

(d) This section shall not be construed so as to require any report in the case of any producing, manufacturing, or processing operation involving the recycling of water solely for use in the producing, manufacturing, or processing operation.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(e) Except upon the written request of the regional board, a report is not required pursuant to this section from any user of recycled water which is being supplied by a supplier or distributor for whom a master recycling permit has been issued pursuant to Section 13523.1.

**Section 13522.6. Penalty for failure to report**

Any person failing to furnish a report under Section 13522.5 when so requested by a regional board is guilty of a misdemeanor.

**Section 13522.7. TRO and/or injunction**

The Attorney General, at the request of the regional board, shall petition the superior court for the issuance of a temporary restraining order, temporary injunction or permanent injunction, or combination thereof, as may be appropriate, requiring any person not complying with Section 13522.5 to comply forthwith.

**Section 13523. Recommendations from DHS and requirements for water to be used as reclaimed water**

(a) Each regional board, after consulting with and receiving the recommendations of the State Department of Health Services and any party who has requested in writing to be consulted, and after any necessary hearing, shall, if in the judgment of the board, it is necessary to protect the public health, safety, or welfare, prescribe water reclamation requirements for water which is used or proposed to be used as reclaimed water.

(b) The requirements may be placed upon the person reclaiming water, the user, or both. The requirements shall be established in conformance with the uniform statewide reclamation criteria established pursuant to Section 13521. The regional board may require the submission of a preconstruction report for the purpose of determining compliance with the uniform statewide reclamation criteria. The requirements for a use of reclaimed water not addressed by the uniform statewide reclamation criteria shall be considered on a case-by-case basis.

**Section 13523.1. Master reclamation permit requirements**

(a) Each regional board, after consulting with, and receiving the recommendations of, the State Department of Health Services and any party who has requested in writing to be consulted, with the consent of the proposed permittee, and after any necessary hearing, may, in lieu of issuing waste discharge requirements pursuant to Section 13263 or water reclamation requirements pursuant to Section 13523 for a user of reclaimed water, issue a master reclamation permit to a supplier or distributor, or both, of reclaimed water.

(b) A master reclamation permit shall include, at least, all of the following:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(1) Waste discharge requirements, adopted pursuant to Article 4 (commencing with Section 13260) of Chapter 4.

(2) A requirement that the permittee comply with the uniform statewide reclamation criteria established pursuant to Section 13521. Permit conditions for a use of reclaimed water not addressed by the uniform statewide water reclamation criteria shall be considered on a case-by-case basis.

(3) A requirement that the permittee establish and enforce rules or regulations for reclaimed water users, governing the design and construction of reclaimed water use facilities and the use of reclaimed water, in accordance with the uniform statewide reclamation criteria established pursuant to Section 13521.

(4) A requirement that the permittee submit a quarterly report summarizing reclaimed water use, including the total amount of reclaimed water supplied, the total number of reclaimed water use sites, and the locations of those sites, including the names of the hydrologic areas underlying the reclaimed water use sites.

(5) A requirement that the permittee conduct periodic inspections of the facilities of the reclaimed water users to monitor compliance by the users with the uniform statewide reclamation criteria established pursuant to Section 13521 and the requirements of the master reclamation permit.

(6) Any other requirements determined to be appropriate by the regional board.

#### **Section 13523.5. Salinity standard exception**

A regional board may not deny issuance of water reclamation requirements to a project which violates only a salinity standard in the basin plan.

#### **Section 13524. Requirement for establishment of criteria**

No person shall recycle water or use recycled water for any purpose for which recycling criteria have been established until water recycling requirements have been established pursuant to this article or a regional board determines that no requirements are necessary.

**Section 13525. TRO and/or injunction**

Upon the refusal or failure of any person or persons recycling water or using recycled water to comply with the provisions of this article, the Attorney General, at the request of the regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting forthwith any person or persons from violating or threatening to violate the provisions of this article.

**Section 13525.5. Violation of Section 12524 – each day a separate offence**

Any person recycling water or using recycled water in violation of Section 13524, after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor. Each day of such recycling or use shall constitute a separate offense.

**Section 13526. Violation – prior to water recycling requirements**

Any person who, after such action has been called to his attention in writing by the regional board, uses recycled water for any purpose for which recycling criteria have been established prior to the establishment of water recycling requirements, is guilty of a misdemeanor.

**Section 13527. Financial assistance**

(a) In administering any statewide program of financial assistance for water pollution or water quality control which may be delegated to it pursuant to Chapter 6 (commencing with Section 13400) of this division, the state board shall give added consideration to water quality control facilities providing optimum water recycling and use of recycled water.

(b) Nothing in this chapter prevents the appropriate regional board from establishing waste discharge requirements if a discharge is involved.

**Section 13528. DHS powers**

No provision of this chapter shall be construed as affecting the existing powers of the State Department of Health Services.

**Section 13529. Findings and declarations**

The Legislature hereby finds and declares all of the following:

(a) The purpose of Section 13529.2 is to establish notification requirements for unauthorized discharges of recycled water to waters of the state.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) It is the intent of the Legislature in enacting this section to promote the efficient and safe use of recycled water.

(c) The people of the state have a primary interest in the development of facilities to recycle water to supplement existing water supplies and to minimize the impacts of growing demand for new water on sensitive natural water bodies.

(d) A substantial portion of the future water requirements of the state may be economically met by the beneficial use of recycled water.

(e) The Legislature has established a statewide goal to recycle 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

(f) The use of recycled water has proven to be safe and the State Department of Health Services is drafting regulations to provide for expanded uses of recycled water.

#### **Section 13529.2. Unauthorized discharge of recycled water**

(a) Any person who , without regard to intent or negligence, causes or permits an unauthorized discharge of 50,000 gallons or more of recycled water, as defined in subdivision (c), or 1,000 gallons or more of recycled water, as defined in subdivision (d), in or on any waters of the state , or causes or permits such unauthorized discharge to be discharged where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the appropriate regional board.

(b) For the purposes of this section, an unauthorized discharge means a discharge not authorized by waste discharge requirements pursuant to Article 4 of Chapter 4 (commencing with Section 13260), water reclamation requirements pursuant to Section 13523, a master reclamation permit pursuant to Section 13523.1, or any other provision of this division.

(c) For the purposes of this section, "recycled water" means wastewater treated as "disinfected tertiary 2.2 recycled water," as defined or described by the State Department of Health Services or wastewater receiving advanced treatment beyond disinfected tertiary 2.2 recycled water.

(d) For purposes of this section, "recycled water" means "recycled water," as defined in subdivision (n) of Section 13050, which is treated at a level less than "disinfected tertiary 2.2 recycled water," as defined or described by the State Department of Health Services.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(e) The requirements in this section supplement, and shall not supplant, any other provisions of law.

#### **Section 13529.4. Penalties**

(a) Any person refusing or failing to provide the notice required by Section 13529.2, or as required by a condition of waste discharge requirements requiring notification of unauthorized releases of recycled water as defined in Section 13529.2, may be subject to administrative civil liability in an amount not to exceed the following:

(1) For the first violation, or a subsequent violation occurring more than 365 days from a previous violation, five thousand dollars (\$5,000).

(2) For a second violation occurring within 365 days of a previous violation, ten thousand dollars (\$10,000).

(3) For a third or subsequent violation occurring within 365 days of a previous violation, twenty-five thousand dollars (\$25,000).

(b) The penalties in this section supplement, and shall not supplant, any other provisions of law.

### **ARTICLE 5. SURVEYS AND INVESTIGATIONS**

#### **Section 13530. Duties**

The department, either independently or in cooperation with any person or any county, state, federal, or other agency, or on request of the state board, to the extent funds are allocated therefor, shall conduct surveys and investigations relating to the reclamation of water from waste pursuant to Section 230.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

12.05.2003



## ARTICLE 6. WASTE WELL REGULATION

### **Section 13540. DHS finding that recharge will not degrade water quality**

(a) No person shall construct, maintain or use any waste well extending to or into a subterranean water-bearing stratum that is used or intended to be used as, or is suitable for, a source of water supply for domestic purposes.

(b) (1) Notwithstanding subdivision (a), when a regional board finds that water quality considerations do not preclude controlled recharge of the stratum by direct injection, and when the State Department of Health Services, following a public hearing, finds the proposed recharge will not degrade the quality of water in the receiving aquifer as a source of water supply for domestic purposes, recycled water may be injected by a well into the stratum. The State Department of Health Services may make and enforce any regulations pertaining to this subdivision as it deems proper.

(2) Nothing in this section shall be construed to do either or both of the following:

(A) Affect the authority of the state board or regional boards to prescribe and enforce requirements for the discharge.

(B) Preempt the exercise by a water district of its existing ordinance authority to impose or implement stricter standards for protecting groundwater quality in the receiving aquifer.

(c) When the State Department of Health Services makes the findings provided for in subdivision (b), the department shall consider the state board's Statement of Policy with Respect to Maintaining High Quality of Waters in California, as set forth in Resolution 68-16, dated October 28, 1968, and shall also consider current and potential future public health consequences of the controlled recharge.

### **Section 13541. Waste well definition**

As used in this article, "waste well" includes any hole dug or drilled into the ground, used or intended to be used for the disposal of waste.

## ARTICLE 7. WATER REUSE

### **Section 13550. Finding and declarations**

(a) The Legislature hereby finds and declares that the use of potable domestic water for nonpotable uses, including, but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

the water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available which meets all of the following conditions, as determined by the state board, after notice to any person or entity who may be ordered to use recycled water or to cease using potable water and a hearing held pursuant to Article 2 (commencing with Section 648) of Chapter 1.5 of Division 3 of Title 23 of the California Code of Regulations:

(1) The source of recycled water is of adequate quality for these uses and is available for these uses. In determining adequate quality, the state board shall consider all relevant factors, including, but not limited to, food and employee safety, and level and types of specific constituents in the recycled water affecting these uses, on a user-by-user basis. In addition, the state board shall consider the effect of the use of recycled water in lieu of potable water on the generation of hazardous waste and on the quality of wastewater discharges subject to regional, state, or federal permits.

(2) The recycled water may be furnished for these uses at a reasonable cost to the user. In determining reasonable cost, the state board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying, delivering, and treating potable domestic water for these uses and the present and projected costs of supplying and delivering recycled water for these uses, and shall find that the cost of supplying the treated recycled water is comparable to, or less than, the cost of supplying potable domestic water.

(3) After concurrence with the State Department of Health Services, the use of recycled water from the proposed source will not be detrimental to public health.

(4) The use of recycled water for these uses will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife, fish, and wildlife.

(b) In making the determination pursuant to subdivision (a), the state board shall consider the impact of the cost and quality of the nonpotable water on each individual user.

(c) The state board may require a public agency or person subject to this article to furnish information which the state board determines to be relevant to making the determination required in subdivision (a).

**Section 13551. Prohibitions on use of potable water for nonpotable uses if recycled water is available; use of recycled water**

A person or public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, shall not use water from any source of quality suitable for potable domestic use for nonpotable uses, including cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses if

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

suitable recycled water is available as provided in Section 13550; however, any use of recycled water in lieu of water suitable for potable domestic use shall, to the extent of the recycled water so used, be deemed to constitute a reasonable beneficial use of that water and the use of recycled water shall not cause any loss or diminution of any existing water right.

#### **Section 13552. Restrictions on Section 13550 and 13551**

The amendments to Sections 13550 and 13551 of the Water Code made during the first year of the 1991-92 Regular Session are not intended to alter any rights, remedies, or obligations which may exist prior to January 1, 1992, pursuant to, but not limited to, those sections or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.

#### **Section 13552.2. Findings and declarations**

(a) The Legislature hereby finds and declares that the use of potable domestic water for the irrigation of residential landscaping is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for this use, is available to the residents and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to submit information that the state board determines may be relevant in making the determination required in subdivision (a).

#### **Section 13552.4. Authority to require use of recycled water for residential landscaping**

(a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for irrigation of residential landscaping, if all of the following requirements are met:

(1) Recycled water, for this use, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The irrigation systems are constructed in accordance with Chapter 3 (commencing with Section 60301) of Division 4 of Title 22 of the California Code Regulations.

(b) This section applies to both of the following:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(1) New subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any residence that is retrofitted to permit the use of recycled water for landscape irrigation and for which the State Department of Health Services has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for irrigation of residential landscaping necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

#### **Section 13552.6. Findings and declarations**

(a) The Legislature hereby finds and declares that the use of potable domestic water for floor trap priming, cooling towers, and air-conditioning devices is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user, and the water meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to submit information that the state board determines may be relevant in making the determination required in subdivision (a).

#### **Section 13552.8. Authority to require use of recycled water for floor trap priming, cooling towers, and air-condition devices, if requirements are met**

(a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water in floor trap priming, cooling towers, and air-conditioning devices, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(3) If public exposure to aerosols, mist, or spray may occur, appropriate mist mitigation or mist control is provided, such as the use of mist arrestors or the addition of biocides to the water in accordance with criteria established pursuant to Section 13521.

(4) The person intending to use recycled water has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the public agency, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies to both of the following:

(1) New industrial facilities and subdivisions for which the building permit is issued on or after March 15, 1994, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1994, for which the State Department of Health Services has approved the use of recycled water.

(2) Any structure that is retrofitted to permit the use of recycled water for floor traps, cooling towers, or air-conditioning devices, for which the State Department of Health Services has approved the use of recycled water.

(c) (1) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water for floor trap priming, cooling towers, or air-conditioning devices necessary to comply with a requirement prescribed by a public agency under subdivision (a).

(2) The exemption in paragraph (1) does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

### **Section 13553. Findings and declarations**

(a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish whatever information may be relevant to making the determination required in subdivision (a).

(c) For the purposes of this section and Section 13554, "structure" or "structures" means commercial, retail, and office buildings, theaters, auditoriums, schools, hotels,

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the State Department of Health Services.

(d) Nothing in this section or Section 13554 applies to a pilot program adopted pursuant to Section 13553.1.

**Section 13553.1. Findings and declarations**

(a) The Legislature hereby finds and declares that certain coastal areas of the state have been using sea water to flush toilets and urinals as a means of conserving potable water; that this practice precludes the beneficial reuse of treated wastewater and has had a deleterious effect on the proper wastewater treatment process, and has led to corrosion of the sea water distribution pipelines and wastewater collection systems; and that this situation must be changed.

(b) There is a need for a pilot program to demonstrate that conversion to the use of recycled water in residential buildings for toilet and urinal flushing does not pose a threat to public health and safety.

(c) A city that is providing a separate distribution system for sea water for use in flushing toilets and urinals in residential structures may, by ordinance, authorize the use of recycled water for the flushing of toilets and urinals in residential structures if the level of treatment and the use of the recycled water meets the criteria set by the State Department of Health Services.

**Section 13554. Authority to require use of recycled water for toilet and urinal flushing**

(a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for toilet and urinal flushing in structures, except a mental hospital or other facility operated by a public agency for the treatment of persons with mental disorders, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The public agency has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the use site, which are in compliance with criteria established pursuant to Section 13521.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) This section applies only to either of the following:

(1) New structures for which the building permit is issued on or after March 15, 1992, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1992.

(2) Any construction pursuant to subdivision (a) for which the State Department of Health Services has, prior to January 1, 1992, approved the use of recycled water.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water by a structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

#### **Section 13554.2. Reimbursement of DHS**

(a) Any person or entity proposing the use of recycled water shall reimburse the State Department of Health Services for reasonable costs that department actually incurs in performing duties pursuant to this chapter.

(b) (1) Upon a request from the person or entity proposing the use of recycled water, the State Department of Health Services shall, within a reasonable time after the receipt of the request, provide an estimate of the costs that it will reasonably incur in the performance of its duties pursuant to this chapter.

(2) For purposes of implementing subdivision (a), that department shall maintain a record of its costs. In determining those costs, that department may consider costs that include, but are not limited to, costs relating to personnel requirements, materials, travel, and office overhead. The amount of reimbursement shall be equal to, and may not exceed, that department's actual costs.

(c) With the consent of the person or entity proposing the use of recycled water, the State Department of Health Services may delegate all or part of the duties that department performs pursuant to this chapter within a county to a local health agency authorized by the board of supervisors to assume these duties, if, in the judgment of that department, the local health agency can perform these duties. Any person or entity proposing the use of recycled water shall reimburse the local health agency for reasonable costs that the local health agency actually incurs in the performance of its duties delegated pursuant to this subdivision.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(d) (1) Upon a request from the person or entity proposing the use of recycled water, the local health agency shall, within a reasonable time after the receipt of the request, provide an estimate of the cost it will reasonably incur in the performance of its duties delegated under subdivision (c).

(2) The local health agency, if delegated duties pursuant to subdivision (c), shall maintain a record of its costs that include, but is not limited to, costs relating to personnel requirements, materials, travel, and office overhead. The amount of reimbursement shall be equal to, and may not exceed, the local health agency's actual costs.

(e) The State Department of Health Services or local health agency shall complete its review of a proposed use of recycled water within a reasonable period of time. That department shall submit to the person or entity proposing the use of recycled water a written determination as to whether the proposal submitted is complete for purposes of review within 30 days from the date of receipt of the proposal and shall approve or disapprove the proposed use within 30 days from the date on which that department determines that the proposal is complete.

(f) An invoice for reimbursement of services rendered shall be submitted to the person or entity proposing the use of recycled water subsequent to completion of review of the proposed use, or other services rendered, that specifies the number of hours spent by the State Department of Health Services or local health agency, specific tasks performed, and other costs actually incurred. Supporting documentation, including receipts, logs, timesheets, and other standard accounting documents, shall be maintained by that department or local health agency and copies, upon request, shall be provided to the person or entity proposing the use of recycled water.

(g) For the purposes of this section, "person or entity proposing the use of recycled water" means the producer or distributor of recycled water submitting a proposal to the department.

### **Section 13554.3. Fees**

The State Water Resources Control Board may establish a reasonable schedule of fees by which it is reimbursed for the costs it incurs pursuant to Sections 13553 and 13554.

### **Section 13555.2. Findings and declarations**

The Legislature hereby finds and declares that many local agencies deliver recycled water for nonpotable uses and that the use of recycled water is an effective means of meeting the demands for new water caused by drought conditions or population increases in the state. It is the intent of the Legislature to encourage the design and construction of water delivery systems on private property that deliver water for both potable and nonpotable uses in separate pipelines.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



**Section 13555.3. Separate pipelines**

(a) Water delivery systems on private property that could deliver recycled water for nonpotable uses described in Section 13550, that are constructed on and after January 1, 1993, shall be designed to ensure that the water to be used for only potable domestic uses is delivered, from the point of entry to the private property to be served, in a separate pipeline which is not used to deliver the recycled water.

(b) This section applies to water delivery systems on private property constructed within either of the following jurisdictions:

(1) One that has an urban water management plan that includes the intent to develop recycled water use.

(2) One that does not have an urban water management plan that includes recycled water use, but that is within five miles of a jurisdiction that does have an urban water management plan that includes recycled water use, and has indicated a willingness to serve the water delivery system.

(c) This section does not preempt local regulation of the delivery of water for potable and nonpotable uses and any local governing body may adopt requirements which are more restrictive than the requirements of this section.

**Section 13556. Acquisition, storage, provision, sale, and delivery of recycled water for beneficial use**

In addition to any other authority provided in law, any water supplier described in subdivision (b) of Section 1745 may acquire, store, provide, sell, and deliver recycled water for any beneficial use, including, but not limited to, municipal, industrial, domestic, and irrigation uses, if the water use is in accordance with statewide recycling criteria and regulations established pursuant to this chapter.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

## CHAPTER 7.5. WATER RECYCLING ACT OF 1991

### **Section 13575. Title and definitions**

(a) This chapter shall be known and may be cited as the Water Recycling Act of 1991.

(b) As used in this chapter, the following terms have the following meanings:

(1) "Customer" means a person or entity that purchases water from a retail water supplier.

(2) "Entity responsible for groundwater replenishment" means any person or entity authorized by statute or court order to manage a groundwater basin and acquire water for groundwater replenishment.

(3) "Recycled water" has the same meaning as defined in subdivision (n) of Section 13050.

(4) "Recycled water producer" means any local public entity that produces recycled water.

(5) "Recycled water wholesaler" means any local public entity that distributes recycled water to retail water suppliers and which has constructed, or is constructing, a recycled water distribution system.

(6) "Retail water supplier" means any local entity, including a public agency, city, county, or private water company, that provides retail water service.

(7) "Retailer" means the retail water supplier in whose service area is located the property to which a customer requests the delivery of recycled water service.

### **Section 13576. Findings and declarations**

The Legislature hereby makes the following findings and declarations:

(a) The State of California is subject to periodic drought conditions.

(b) The development of traditional water resources in California has not kept pace with the state's population, which is growing at the rate of over 700,000 per year and which is anticipated to reach 36 million by the year 2010.

(c) There is a need for a reliable source of water for uses not related to the supply of potable water to protect investments in agriculture, greenbelts, and recreation and to

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

replenish groundwater basins, and protect and enhance fisheries, wildlife habitat, and riparian areas.

(d) The environmental benefits of recycled water include a reduced demand for water in the Sacramento-San Joaquin Delta which is otherwise needed to maintain water quality, reduced discharge of waste into the ocean, and the enhancement of groundwater basins, recreation, fisheries, and wetlands.

(e) The use of recycled water has proven to be safe from a public health standpoint, and the State Department of Health Services is updating regulations for the use of recycled water.

(f) The use of recycled water is a cost-effective, reliable method of helping to meet California's water supply needs.

(g) The development of the infrastructure to distribute recycled water will provide jobs and enhance the economy of the state.

(h) Retail water suppliers and recycled water producers and wholesalers should promote the substitution of recycled water for potable water and imported water in order to maximize the appropriate cost-effective use of recycled water in California.

(i) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment should cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service.

(j) Retail water suppliers and recycled water producers and wholesalers should be encouraged to enter into contracts to facilitate the service of recycled and potable water by the retail water suppliers in their service areas in the most efficient and cost-effective manner.

(k) Recycled water producers and wholesalers and entities responsible for groundwater replenishment should be encouraged to enter into contracts to facilitate the use of recycled water for groundwater replenishment if recycled water is available and the authorities having jurisdiction approve its use.

(l) Wholesale prices set by recycled water producers and recycled water wholesalers, and rates that retail water suppliers are authorized to charge for recycled water, should reflect an equitable sharing of the costs and benefits associated with the development and use of recycled water.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

### **Section 13577. Establishment of goal**

This chapter establishes a statewide goal to recycle a total of 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

### **Section 13578. Report and task force**

(a) In order to achieve the statewide goal for recycled water use established in Section 13577 and to implement the Governor's Advisory Drought Planning Panel Critical Water Shortage Contingency Plan recommendations, Section F2, as submitted December 29, 2000, the department shall identify and report to the Legislature on opportunities for increasing the use of recycled water, as defined in paragraph (3) of subdivision (b) of Section 13575, and identify constraints and impediments, including the level of state financial assistance available for project construction, to increasing the use of recycled water.

(b) The department shall convene a task force, to be known as the 2002 Recycled Water Task Force, to advise the department in implementation of subdivision (a), including making recommendations to the Legislature regarding the following:

(1) How to further the use of recycled water in industrial and commercial applications, including, but not limited to, those applications set forth in Section 13552.8. The task force shall evaluate the current regulatory framework of state and local rules, regulations, ordinances, and permits to identify the obstacles and disincentives to industrial and commercial reuse. Issues to be investigated include, but are not limited to, applicability of visual inspections instead of pressure tests for cross-connections between potable and nonpotable water systems, dual piping trenching restrictions, fire suppression system design, and backflow protections.

(2) Changes in the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, that are appropriate to facilitate the use of recycled water in industrial and commercial settings. The department shall make recommendations to the California Building Standards Commission with regard to suggested revisions to the California Plumbing Code necessary to incorporate the changes identified by the task force.

(3) Changes in state statutes or the current regulatory framework of state and local rules, regulations, ordinances, and permits appropriate to increase the use of recycled water for commercial laundries and toilet and urinal flushing in structures including, but not limited to, those defined in subdivision (c) of Section 13553. The department shall identify financial incentives to help offset the cost of retrofitting privately and publicly owned structures.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(4) The need to reconvene the California Potable Reuse Committee established by the department in 1993 or convene a successor committee to update the committee's finding that planned indirect potable reuse of recycled water by augmentation of surface water supplies would not adversely affect drinking water quality if certain conditions were met.

(5) The need to augment state water supplies using water use efficiency strategies identified in the CALFED Bay-Delta Program. In its report pursuant to subdivision (a), the department shall identify ways to coordinate with CALFED to assist local communities in educating the public with regard to the statewide water supply benefits of local recycling projects and the level of public health protection ensured by compliance with the uniform statewide water recycling criteria developed by the State Department of Health Services in accordance with Section 13521.

(6) Impediments or constraints, other than water rights, related to increasing the use of recycled water in applications for agricultural, environmental, or irrigation uses, as determined by the department.

(c) (1) The task force shall be convened by the department and be comprised of one representative from each of the following state agencies:

- (A) The department.
- (B) The State Department of Health Services.
- (C) The state board.
- (D) The California Environmental Protection Agency.
- (E) The CALFED Bay-Delta Program.
- (F) The Department of Food and Agriculture.
- (G) The Building Standards Commission.
- (H) The University of California.
- (I) The Resources Agency.

(2) The task force shall also include one representative from a recognized environmental advocacy group and one representative from a consumer advocacy group, as determined by the department, and one representative of local agency health officers, one representative of urban water wholesalers, one representative from a groundwater management entity, one representative of water districts, one representative from a nonprofit association of public and private members created to further the use of recycled water, one representative of commercial real estate, one representative of land development, one representative of industrial interests, and at least two representatives from each of the following as defined in Section 13575:

- (A) Recycled water producer.
- (B) Recycled water wholesaler.
- (C) Retail water supplier.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(d) The department and the task force shall report to the Legislature not later than July 1, 2003.

(e) The department shall carry out the duties of this section only to the extent that funds pursuant to Section 79145, enacted as part of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act (Division 26 (commencing with Section 79000)), are made available for the purposes of this section.

**Section 13579. Identification of potential uses for recycled water**

(a) In order to achieve the goals established in Section 13577, retail water suppliers shall identify potential uses for recycled water within their service areas, potential customers for recycled water service within their service areas, and, within a reasonable time, potential sources of recycled water.

(b) Recycled water producers and recycled water wholesalers may also identify potential uses for recycled water, and may assist retail water suppliers in identifying potential customers for recycled water service within the service areas of those retail water suppliers.

(c) Recycled water producers, retail water suppliers, and entities responsible for groundwater replenishment may cooperate in joint technical, economic, and environmental studies, as appropriate, to determine the feasibility of providing recycled water service and recycled water for groundwater replenishment consistent with the criteria set forth in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 13550 and in accordance with Section 60320 of Title 22 of the California Code of Regulations.

**Section 13580. Application for recycled water supply**

(a) A retail water supplier that has identified a potential use or customer pursuant to Section 13579 may apply to a recycled water producer or recycled water wholesaler for a recycled water supply.

(b) A recycled water producer or recycled water wholesaler that has identified a potential use or customer pursuant to Section 13579 may, in writing, request a retail water supplier to enter into an agreement to provide recycled water to the potential customer.

(c) A customer may request, in writing, a retailer to enter into an agreement to provide recycled water to the customer.

(d) (1) An entity responsible for groundwater replenishment that is a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request that retail water supplier to enter into an agreement to provide recycled water for that purpose. That entity may not obtain

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

recycled water for that purpose from a recycled water producer, a recycled water wholesaler, or another retail water supplier without the agreement of the entity's retail water supplier.

(2) An entity responsible for groundwater replenishment that is not a customer of a retail water supplier and that has identified the potential use of recycled water for groundwater replenishment purposes may, in writing, request a retail water supplier, a recycled water producer, or a recycled water wholesaler to enter into an agreement to provide recycled water for that purpose.

#### **Section 13580.5. Agreements to provide recycled water**

(a) (1) Subject to subdivision (e) of Section 13580.7, a retail water supplier that receives a request from a customer pursuant to subdivision (c) of Section 13580 shall enter into an agreement to provide recycled water, if recycled water is available, or can be made available, to the retail water supplier for sale to the customer.

(2) Notwithstanding paragraph (1), in accordance with a written agreement between a recycled water producer or a recycled water wholesaler and a retail water supplier, the retail water supplier may delegate to a recycled water producer or a recycled water wholesaler its responsibility under this section to provide recycled water.

(b) A customer may not obtain recycled water from a recycled water producer, a recycled water wholesaler, or a retail water supplier that is not the retailer without the agreement of the retailer.

(c) If either a recycled water producer or a recycled water wholesaler provides a customer of a retail water supplier with a written statement that it can and will provide recycled water to the retailer, the retail water supplier shall, not later than 120 days from the date on which the retail water supplier receives the written statement from the customer, by certified mail, return receipt requested, submit a written offer to the customer. A determination of availability pursuant to Section 13550 is not required.

(d) If the state board pursuant to Section 13550 makes a determination that there is available recycled water to serve a customer of a retail water supplier, the retail water supplier, not later than 120 days from the date on which the retail water supplier receives a copy of that determination from the customer, by certified mail, return receipt requested, shall submit a written offer to the customer.

#### **Section 13580.7. Public agency retail water supplies**

(a) This section applies only to a retail water supplier that is a public agency.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) A customer may request, in writing, a retail water supplier to enter into an agreement or adopt recycled water rates in order to provide recycled water service to the customer. The retail water supplier, by certified mail return receipt requested, shall submit a written offer to the customer not later than 120 days from the date on which the retail water supplier receives the written request from the customer.

(c) If no rate is in effect for recycled water service within the service area of a retail water supplier, the rate and conditions for recycled water service shall be established by contract between the retail water supplier and the customer, not later than 120 days from the date on which the customer requests a contract, or, by resolution or ordinance by the retail water supplier, not later than 120 days from the date on which the retail water supplier receives the customer's written request for an ordinance or resolution.

(d) A rate for recycled water service established by contract, ordinance, or resolution, shall reflect a reasonable relationship between the amount of the rate and the retail cost of obtaining or producing the recycled water, the cost of conveying the recycled water, and overhead expenses for providing recycled water service. Capital costs of facilities required to serve the customer shall be amortized over the economic life of the facility, or the length of time the customer agrees to purchase recycled water, whichever is less. The rate shall not exceed the estimated reasonable cost of providing the service, and any additional costs agreed to by the customer for recycled water supplemental treatment.

(e) The rate for recycled water shall be comparable to, or less than, the retail water supplier's rate for potable water. If recycled water service cannot be provided at a rate comparable to, or less than, the rate for potable water, the retail water supplier is not required to provide the recycled water service, unless the customer agrees to pay a rate that reimburses the retail water supplier for the costs described in subdivision (c).

(f) The offer required by subdivisions (c) and (d) of Section 13580.5 shall identify all of the following:

- (1) The source for the recycled water.
- (2) The method of conveying the recycled water.
- (3) A schedule for delivery of the recycled water.
- (4) The terms of service.
- (5) The rate for the recycled water, including the per-unit cost for that water.
- (6) The costs necessary to provide service and the basis for determining those costs.

(g) This section does not apply to recycled water service rates established before January 1, 1999, or any amendments to those rates.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



**Section 13580.8. Retail water supplier regulated by the PUC**

(a) This section applies only to a retail water supplier that is regulated by the Public Utilities Commission.

(b) Rates for recycled water that is provided to the customer by a retail water supplier regulated by the Public Utilities Commission shall be established by the commission pursuant to Section 455.1 of the Public Utilities Code. A regulated water utility may request the commission to establish the rate or rates for the delivery of recycled or nonpotable water, with the objective of providing, where practicable, a reasonable economic incentive for the customer to purchase recycled or nonpotable water in place of potable water.

(c) A regulated water utility may propose a rate or rates for recycled or nonpotable water by tariff or by contract between the retail water supplier and the customer. Where the rate or rates are set by contract, the water utility and its customer shall meet, confer, and negotiate in good faith to establish a contract rate.

(d) The commission shall, as appropriate, provide a discount from the general metered rate of the water utility for potable water by either of the following means:

(1) Passing through to the customer the net reduction in cost to the water utility in purchasing and delivering recycled or nonpotable water as compared to the cost of purchasing and delivering potable water.

(2) Granting to the customer a uniform discount from the water utility's general metered potable water rate when the discount in paragraph (1) is determined to be an insufficient incentive for the customer to convert to the use of recycled or nonpotable water. If the commission provides for a discount pursuant to this paragraph that is greater than the water utility's reduction in cost, the commission shall authorize the water utility to include the aggregate amount of that discount in its revenue requirements to be applied to, and recovered in, rates that are applicable to all general metered customers.

**Section 13580.9. City of West Covina**

(a) Notwithstanding any other provision of law, and except as otherwise previously provided for in a contract agreed to by the customer and the City of West Covina, if the purchaser, contractor, or lessee of, or successor to, all or a portion of the water utility owned by the City of West Covina is a retail water supplier that is regulated by the Public Utilities Commission, rates for recycled or nonpotable water service to a closed hazardous waste and solid waste facility located within the boundaries of the City of West Covina for the purposes of irrigation, recreation, or dust suppression or any other use at that facility shall be established in accordance with subdivisions (a) to (e), inclusive, of Section 13580.7, and if there is a failure to agree on the terms and conditions

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

of a recycled or nonpotable water supply agreement for the delivery of water for those purposes by that purchaser, contractor, lessee, or successor, Section 13581 shall apply.

(b) For the purpose of this section, nonpotable water that is not the result of the treatment of waste shall be treated as the equivalent of recycled water if it is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource, if the use of that water will not adversely affect downstream water rights, degrade water quality, or be injurious to plant life, fish, or wildlife, as provided by statute or by regulations of the State Department of Health Services and the state board or a regional board, as appropriate.

### **Section 13581. Formal mediation process**

(a) If there is a failure to agree on terms and conditions of a recycled water supply agreement involving a retail water supplier that is a public agency within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision (c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, any party may request a formal mediation process. The parties shall commence mediation within 60 days after the mediation request is made. If the parties cannot agree on a mediator, the director shall appoint a mediator. The mediator may recommend to the parties appropriate terms and conditions applicable to the service of recycled water. The cost for the services of the mediator shall be divided equally among the parties to the mediation and shall not exceed twenty thousand dollars (\$20,000).

(b) If the parties in mediation reach agreement, both parties together shall draft the contract for the recycled water service. The parties shall sign the contract within 30 days.

(c) If the parties in mediation fail to reach agreement, the affected retail water supplier shall, within 30 days, by resolution or ordinance, adopt a rate for recycled water service. The agency action shall be subject to validating proceedings pursuant to Chapter 9 (commencing with Section 860) of Part 2 of Title 10 of the Code of Civil Procedure, except that there shall not be a presumption in favor of the retail water supplier under the action taken to set the rate for recycled water service. The mediator shall file a report with the superior court setting forth the recommendations provided to the parties regarding appropriate terms and conditions applicable to the service of recycled water. Each party shall bear its own costs and attorney's fees.

### **Section 13581.2. Process for a retail water supplier regulated by the PUC**

If the retail water supplier is regulated by the Public Utilities Commission, and there is a failure to agree on terms and conditions of a recycle water supply agreement with a customer within 180 days from the date of the receipt of a request for recycled water pursuant to subdivision (c) of Section 13580, a written statement pursuant to subdivision

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(c) of Section 13580.5, or a determination of availability pursuant to subdivision (d) of Section 13580.5, the matter shall be submitted to the Public Utilities Commission for resolution, and the commission shall determine a contract rate or rates for recycled water as provided in Section 13580.8.

#### **Section 13582. Limitation on this chapter**

This chapter is not intended to alter either of the following:

- (a) Any rights, remedies, or obligations which may exist pursuant to Article 1.5 (commencing with Section 1210) of Chapter 1 of Part 2 of Division 2 of this code or Chapter 8.5 (commencing with Section 1501) of Part 1 of Division 1 of the Public Utilities Code.
- (b) Any rates established or contracts entered into prior to January 1, 1999.

#### **Section 13583. Noncompliance**

- (a) If a retail water supplier that is a public agency does not comply with this chapter, the customer may petition a court for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.
- (b) If a retail water supplier is regulated by the Public Utilities Commission and does not comply with this chapter, the Public Utilities Commission may order the retailer to comply with this chapter after receiving a petition from the customer specifying the provisions of this chapter with which the retailer has failed to comply.

### **CHAPTER 8.5. PERCHLORATE**

#### **Section 13610. Definitions**

Unless the context otherwise requires, the definitions set forth in this section govern the construction of this chapter:

- (a) "Perchlorate" means all perchlorate-containing compounds, including ammonium, potassium, magnesium, and sodium perchlorate not found on or after January 1, 2004, in unused military munitions as defined in Section 260.10 of Title 40 of the Code of Federal Regulations.
- (b) Subject to Section 13610.5, "perchlorate storage facility" means a facility, not including a military munitions storage facility within a military installation that meets the

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

Department of Defense Explosive Safety Board requirements set forth in DOD 605.9-STD, that stores over 500 pounds of perchlorate in any calendar year.

(c) For the purposes of this section, "military munitions storage facility" does not include the entire military installation within which the military munitions storage facility is located.

### **Section 13610.5. Exceptions**

This chapter does not apply to the following:

- (a) A facility that stores perchlorate for retail purposes or for law enforcement purposes.
- (b) Drinking water storage reservoirs.

### **Section 13611. Application limits and penalties**

(a) The notification required by Section 13611.5 does not apply to a discharge that is in compliance with this division, or to a water agency conveying water in compliance with all state and federal drinking water standards.

(b) Any person who fails to provide the notifications required by Section 13271 relating to perchlorate or by Section 13611.5 may be civilly liable in accordance with subdivision (c).

(c) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation described in subdivision (b) in an amount that does not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 11350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation described in subdivision (b) in an amount that is not less than five hundred dollars (\$500), or more than five thousand dollars (\$5,000), for each day in which the violation occurs.

(d) Notwithstanding Section 13341, all money collected by the state pursuant to this section shall be available to the state board upon appropriation by the Legislature.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 13611.5. Information to be provided to the state board**

(a) On or before January 1, 2005, and annually thereafter, unless the owner or operator has met the alternative compliance requirements of subdivision (b), an owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate shall submit to the state board, to the extent feasible, all of the following information:

(1) The volume of perchlorate stored each year.

(2) The method of storage.

(3) The location of storage. To the extent authorized by federal law, in the case of a perchlorate storage facility under the control of the Armed Forces of the United States, "location" means the name and address of the property within which the perchlorate storage facility is located.

(4) Copies of documents relating to any monitoring undertaken for potential leaks into the water bodies of the state.

(b) The owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate, is in compliance with this section if both of the following conditions are met:

(1) The owner or operator has provided substantially similar information as required pursuant to subdivision (a) to a state, local, or federal agency pursuant to any of the following:

(i) An order issued by a regional board pursuant to Chapter 5 (commencing with Section 13300) of Division 7.

(ii) An order, consent order, or consent decree issued or entered into by the Department of Toxic Substances Control pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(iii) An an order, consent order, or consent decree issued or entered into by the United States Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(iv) The requirement under Section 25504.1 of the Health and Safety Code, as added by Assembly Bill 826 of the 2003-04 Regular Session.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(2) The owner or operator, on or before January 1, 2005, and annually thereafter, notifies the state board of the governmental entity to which the information is provided and the state board determines the information supplied is substantially similar as the information required to be reported pursuant to subdivision (a). In the case of any information submitted to a federal or local agency, the state board may require the owner or operator, in addition, to submit that information to the state board if the state board determines that the information is not otherwise reasonably available to the state board.

(c) This section shall not be administered or implemented if the state board receives notification from the Secretary for Environmental Protection pursuant to Section 13613 that the Secretary for Environmental Protection has established a database that is able to receive perchlorate inventory information.

(d) Information on perchlorate storage need only be submitted pursuant to this section one time, unless information originally submitted pursuant to this section has changed.

#### **Section 13612. Publication date and availability to the public**

(a) The state board shall publish and make available to the public on or before January 1, 2006, a list of past and present perchlorate storage facilities within the state. The state board may charge an annual fee to each owner of a storage facility that provides information to the board for that purpose, which fee shall not exceed one hundred dollars (\$100) for each year information is provided. The fees shall be deposited in the State Water Quality Control Fund, and notwithstanding any other provision of law, shall be available to the state board upon appropriation by the Legislature.

(b) The state board shall compile and maintain centrally all information obtained pursuant to Section 13611.5. The information shall be available for public review.

#### **Section 13613. Submittal of information**

Upon notification from the Secretary for Environmental Protection that he or she has established a database that is able to receive perchlorate inventory information pursuant to paragraph (2) of subdivision (e) of Section 25404 of the Health and Safety Code, the state board shall submit to the Secretary for Environmental Protection all perchlorate storage information obtained pursuant to Section 13611.5.

CHAPTER 10. WELLS  
ARTICLE 3. REPORTS

**Section 13750.5. Responsible person**

No person shall undertake to dig, bore, or drill a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well, to deepen or reperform such a well, or to abandon or destroy such a well, unless the person responsible for that construction, alteration, destruction, or abandonment possesses a C-57 Water Well Contractor's License.

**Section 13751. Completion report**

(a) Every person who digs, bores, or drills a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well, abandons or destroys such a well, or deepens or reperfomates such a well, shall file with the department a report of completion of that well within 60 days from the date its construction, alteration, abandonment, or destruction is completed.

(b) The report shall be made on forms furnished by the department and shall contain information as follows:

(1) In the case of a water well, cathodic protection well, or groundwater monitoring well, the report shall contain information as required by the department, including, but not limited to all of the following information:

(A) A description of the well site sufficiently exact to permit location and identification of the well.

(B) A detailed log of the well.

(C) A description of type of construction.

(D) The details of perforation.

(E) The methods used for sealing off surface or contaminated waters.

(F) The methods used for preventing contaminated waters of one aquifer from mixing with the waters of another aquifer.

(G) The signature of the well driller.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(2) In the case of a geothermal heat exchange well, the report shall contain all of the following information:

(A) A description of the site that is sufficiently exact to permit the location and identification of the site and the number of geothermal heat exchange wells drilled on the same lot.

(B) A description of borehole diameter and depth and the type of geothermal heat exchange system installed.

(C) The methods and materials used to seal off surface or contaminated waters.

(D) The methods used for preventing contaminated water in one aquifer from mixing with the water in another aquifer.

(E) The signature of the well driller.

#### **Section 13752. Inspection of reports**

Reports made in accordance with paragraph (1) of subdivision (b) of Section 13751 shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies or to any person who obtains a written authorization from the owner of the well. However, a report associated with a well located within two miles of an area affected or potentially affected by a known unauthorized release of a contaminant shall be made available to any person performing an environmental cleanup study associated with the unauthorized release, if the study is conducted under the order of a regulatory agency. A report released to a person conducting an environmental cleanup study shall not be used for any purpose other than for the purpose of conducting the study.

#### **Section 13753. Conversion of wells**

Every person who hereafter converts, for use as a water well, cathodic protection well, or monitoring well, any oil or gas well originally constructed under the jurisdiction of the Department of Conservation pursuant to Article 4 (commencing with Section 3200) of Chapter 1 of Division 3 of the Public Resources Code, shall comply with all provisions of this chapter.

#### **Section 13754. Misdemeanor**

Failure to comply with any provision of this article, or willful and deliberate falsification of any report required by this article, is a misdemeanor.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



Before commencing prosecution against any person, other than for willful and deliberate falsification of any report required by this article, the person shall be given reasonable opportunity to comply with the provisions of this article.

**Section 13755. DHS powers undiluted**

Nothing in this chapter shall affect the powers and duties of the State Department of Health Services with respect to water and water systems pursuant to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code. Every person shall comply with this chapter and any regulation adopted pursuant thereto, in addition to standards adopted by any city or county.

**CHAPTER 22. GRAYWATER SYSTEMS**

**Section 14875. Application of chapter**

This chapter applies to the construction, installation, or alteration of graywater systems for subsurface irrigation and other safe uses.

**Section 14875.1. Definition of department**

"Department" means the Department of Water Resources.

**Section 14876. Graywater definition**

"Graywater" means untreated wastewater which has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and which does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. Graywater includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs but does not include wastewater from kitchen sinks or dishwashers.

**Section 14877. Graywater system definition**

"Graywater system" means a system and devices, attached to the plumbing system for the sanitary distribution or use of graywater.

**Section 14877.1. Standards for installation of graywater systems**

(a) On or before January 1, 1997, the department, in consultation with the State Department of Health Services and the Center for Irrigation Technology at California State University, Fresno, shall adopt standards for the installation of graywater systems.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

In adopting these standards, the department shall consider, among other resources, "Appendix J," as adopted on September 29, 1992, by the International Association of Plumbing and Mechanical Officials, the graywater standard proposed for the latest edition of the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, the City of Los Angeles Graywater Pilot Project Final Report issued in November 1992, and the advice of the Center for Irrigation Technology at California State University, Fresno, on the installation depth for subsurface drip irrigation systems.

(b) The department shall include among the approved methods of subsurface irrigation, but shall not be limited to, drip systems.

(c) The department shall revise its graywater systems standards as needed.

### **Section 14877.2. Local jurisdiction**

A graywater system may be installed if the city or county having jurisdiction over the installation determines that the system complies with standards adopted by the department.

### **Section 14877.3. Local agency – more stringent standards**

After a public hearing, a city or county may adopt, by ordinance, standards that prohibit the use of graywater or standards that are more restrictive than the standards adopted by the department, as appropriate for the local area.

## **DIVISION 20.5. WHOLESALE REGIONAL WATER SYSTEM SECURITY AND RELIABILITY ACT**

### **Section 73500. Citation**

This division shall be known as and may be cited as the Wholesale Regional Water System Security and Reliability Act.

### **Section 73501. Definitions**

(a) Unless the context otherwise requires, the definitions set forth in this section govern the construction of this division.

(b) "Association" means the San Francisco Bay Area Water Users Association.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(c) "Bay area regional water system" means the facilities for the storage, treatment, and transmission of water located in the Counties of Tuolumne, Stanislaus, San Joaquin, Alameda, Santa Clara, and San Mateo, together with three terminal reservoirs in the city.

(d) "Bay area wholesale customers" means the 26 public agencies in the Counties of San Mateo, Alameda, and Santa Clara that purchase water from the city pursuant to the master water sales contract, including the Alameda County Water District, the City of Brisbane, the City of Burlingame, the Coastside County Water District, the City of Daly City, the City of East Palo Alto, the Estero Municipal Improvement District, Guadalupe Valley Municipal Improvement District, City of Hayward, the Town of Hillsborough, the Los Trancos County Water District, the City of Menlo Park, the Mid-Peninsula Water District, the City of Millbrae, the City of Milpitas, the City of Mountain View, the North Coast County Water District, the City of Palo Alto, the Purissima Hills Water District, the City of Redwood City, the City of San Bruno, the City of San Jose, the City of Santa Clara, the Skyline County Water District, the City of Sunnyvale, and the Westborough Water District, Stanford University, the California Water Service Company, and the Cordilleras Mutual Water Association.

(e) "City" means the City and County of San Francisco.

(f) "Master water sales contract" means the agreement entitled "Settlement Agreement and Master Water Sales Contract between the City and County of San Francisco and Certain Suburban Purchasers" entered into in 1984 by the city and the wholesale customers.

(g) "Regional water system" means facilities for the storage, treatment, and transmission of water owned and operated by a regional wholesale water supplier, other than the city.

(h) "Regional wholesale water supplier" means any city, county, or city and county, including the city, that operates a regional water system, and furnishes water on a wholesale basis to local government agencies and public utilities that, in turn, supply water to a combined population of 1.5 million or more residents of geographic areas outside the boundary of the regional wholesale water supplier.

(i) "Wholesale customers" means local government agencies and public utilities, including, but not limited to, the bay area wholesale customers, that purchase water from a regional wholesale water supplier and distribute that water to retail customers in their respective service areas.

**Section 73502. Capital improvement projects**

(a) The city, on or before February 1, 2003, shall adopt the program of capital improvement projects designed to restore and improve the bay area regional water system that are described in the capital improvement program report prepared by the San Francisco Public Utilities Commission dated February 25, 2002. A copy of the program shall be submitted, on or before March 1, 2003, to the State Department of Health Services. The program shall include a schedule for the completion of design and award of contract, and commencement and completion of construction of each described project. The schedule shall require that projects representing 50 percent of the total program cost be completed on or before 2010 and that projects representing 100 percent of the total program cost be completed on or before 2015. The program shall also contain a financing plan. The city shall review and update the program, as necessary, based on changes in the schedule set forth in the plan adopted pursuant to subdivision (d).

(b) The plan shall require completion of the following projects:

Project	Location	Project Identification Number
1. Irvington Tunnel Alternative	Alameda/Santa Clara Counties	9970
2. Crystal Springs Pump Station & Pipeline	San Mateo County	201671
3. BDPL 1&2-Repair of Caissons/Pipe Bridge	Alameda/San Mateo Counties	99
4. . BDPL Pipeline Upgrades at Hayward Fault	Alameda County	128
5. Calaveras Fault Crossing Upgrade	Alameda County	9897
6. Crystal Springs Bypass Pipeline	San Mateo County	9891
7. BDPL Cross Connections 3&4	Alameda/Santa Clara Counties	202339
8. Conveyance Capacity West of Irvington Tunnel	Alameda/Santa Clara Counties	201441
9. Calaveras Dam Seismic Improvements	Alameda County	202135

(c) The city shall submit a report to the Joint Legislative Audit Committee, the Seismic Safety Commission, and the State Department of Health Services, on or before September 1 of each year, describing the progress made on the implementation of the capital improvement program for the bay area regional water system during the previous fiscal year.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(d) (1) The city may determine that completion dates for projects contained in the capital improvement program adopted pursuant to subdivision (a), including those projects described in subdivision (b), should be delayed or that different projects should be constructed.

(2) The city shall provide written notice, not less than 30 days prior to the date of a meeting of the city agency responsible for management of the bay area regional water system, that a change in the program is to be considered. The notice shall include information about the reason for the proposed change and the availability of materials related to the proposed change. All bay area wholesale customers shall be permitted to testify or otherwise submit comments at the meeting.

(3) If the city adopts a change in the program that deletes one or more projects from the program, or postpones the scheduled completion dates, the city shall promptly furnish a copy of that change and the reasons for that change to the State Department of Health Services and the Seismic Safety Commission. The State Department of Health Services and the Seismic Safety Commission shall each submit written comments with regard to the significance of that change with respect to public health and safety to the city and the Joint Legislative Audit Committee not later than 90 days after the date on which those entities received notice of that change.

### **Section 73503. Emergency response plan**

(a) The city, in consultation with the association and the offices of emergency services in Alameda County, Santa Clara County, and San Mateo County, shall prepare an emergency response plan describing how water service will be restored to the area served by the bay area regional water system after an interruption caused by earthquake or other natural or manmade catastrophe. A draft of the plan shall be submitted to the Office of Emergency Services on or before July 1, 2003, for comment and shall be adopted by the city on or before September 1, 2003, and thereafter shall be implemented.

(b) During any interruption in supply caused by earthquake, or other natural or manmade catastrophe, a regional wholesale water supplier shall distribute water to customers on an equitable basis, to the extent feasible given physical damage to the regional water system, without preference or discrimination based on a customer's geographic location within or outside the boundary of the regional wholesale water supplier.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 73504. Reports**

(a) Commencing in 2003, a regional wholesale water supplier shall submit a report to the Legislature and the State Department of Health Services, on or before February 1 of each year, describing the progress made during the previous calendar year on securing supplemental sources of water to augment existing supplies during dry years.

(b) In order to supply adequately, dependably, and safely the requirements of all users of water, the city shall continue its practice of operating the reservoirs in the Counties of Tuolumne and Stanislaus in a manner that ensures that the generation of hydroelectric power will not cause any reasonably anticipated adverse impact on water service. The city shall assign higher priority to delivery of water to the bay area than to the generation of electric power, unless the Secretary of the Interior, in writing, notifies the city that doing so would violate the Raker Act (63 P.L. 41). The city shall make available to the public, on request, its plans of operations (rule curves) for these reservoirs.

(c) The city shall be deemed to be a local public agency for the purposes of Article 4 (commencing with Section 1810) of Chapter 11 of Part 2 of Division 2.

**Section 73505. Audit of the city's program of maintenance**

The State Department of Health Services shall conduct an audit, or arrange for an audit to be performed by contract, of the city's program of maintenance of the bay area regional water system prior to July 1, 2004. The audit shall include both of the following:

(a) A review of the adequacy of the city's procedures and resources for all of the following:

- (1) Identifying needed maintenance.
- (2) Planning, budgeting, scheduling, and completing maintenance.
- (3) Recordkeeping of maintenance activities.

(b) A field investigation of the major facilities of the bay area regional water system to determine the general condition of those facilities and the adequacy of existing maintenance efforts.

(c) The State Department of Health Services shall submit a report to the city, the Joint Legislative Audit Committee, and the Seismic Safety Commission on its findings and recommendations based on the audit on or before January 1, 2005.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 73506. Audit of regional water systems**

The State Department of Health Services shall conduct an audit of the regional water systems operated by all regional wholesale water suppliers, other than the city, subject to this division and shall submit to the Legislature a report thereon on or before February 1, 2006.

**Section 73508. Special district formation**

If the city and the bay area wholesale customers that are public agencies form a special district with authority and responsibility to own, operate, and manage the bay area regional water system and whose governing board's composition reflects the proportionate use of water delivered by the bay area regional water system within the city and within the aggregate geographic area served by the bay area wholesale customers, the obligations imposed on the city by this division shall be applicable to that district. The city shall be relieved of all obligations under this division at the time the ownership and control of the bay area regional water system are transferred to that district.

**Section 73510. Compliance**

Notwithstanding Section 116500 of the Health and Safety Code, the State Department of Health Services shall ensure that the bay area regional water system is operated in compliance with the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code) and the guidelines established by the United States Environmental Protection Agency for the purposes of administering the comparable provisions of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.).

**Section 73511. Special district funding**

A special district composed of some or all of the bay area wholesale customers may receive state funds for the purpose of protecting the bay area regional water system against seismic risk, without regard to whether the city is a member of that district.

**Section 73512. Reimbursement of the state for costs**

A regional wholesale water supplier shall reimburse the state for all costs incurred by the State Department of Health Services or the Seismic Safety Commission in carrying out the duties imposed by this division. The bay area wholesale customers shall reimburse the city for their share of those costs as provided in the master water sales contract. The wholesale customers of regional wholesale water suppliers other than the city are responsible for reimbursing the regional wholesale water supplier for their proportionate share of those costs, through the imposition of water charges.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

### **Section 73513. Rights and obligations**

Nothing in this division affects the rights and obligations of the city, the Modesto Irrigation District, or the Turlock Irrigation District, as between themselves, whether arising from statute or contract.

### **Section 73513.5. Governance, control, or ownership**

Nothing in this division changes the governance, control, or ownership of the bay area regional water system.

### **Section 73514. Repeal of division**

This division shall become inoperative on the earlier of either of the following dates, and on January 1 immediately following that earlier date, is repealed:

(a) The date on which the State Director of Health Services notifies, in writing, the Chairperson of the Joint Legislative Audit Committee and certifies that the city has awarded contracts for construction of each of the projects described in subdivision (b) of Section 73502.

(b) December 31, 2010.

## **DIVISION 26. SAFE DRINKING WATER, CLEAN WATER, WATERSHED PROTECTION, AND FLOOD PROTECTION ACT**

### **CHAPTER 4. SAFE DRINKING WATER PROGRAM**

### **Section 79020. Definitions**

Unless the context otherwise requires, the following definitions govern the construction of this chapter.

(a) "Federal act" means the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), and includes any amendments thereto.

(b) "State department" means the State Department of Health Services.

(c) "Supplier" means any person, partnership, corporation, association, public agency, or other entity, including any Indian tribe having a federally recognized governing body carrying out substantial governmental duties in and powers over any area, that owns or operates a public water system.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



**Section 79021. Funding amount**

The sum of seventy million dollars (\$70,000,000) is hereby transferred from the fund to the Safe Drinking Water State Revolving Fund created by Section 116760.30 of the Health and Safety Code.

**Section 79022. State Revolving Fund**

(a) The money transferred to the Safe Drinking Water State Revolving Fund pursuant to Section 79021, except as otherwise provided in Sections 79022.7 and 79025, shall be used by the state department for loans and grants to suppliers for the purposes of undertaking infrastructure improvements and related actions to meet safe drinking water standards, in accordance with the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code).

(b) A supplier that is eligible for grants under Section 300j-12 (i) of the federal act (42 U.S.C. Sec. 1452(i)) may concurrently make application for funds annually appropriated under the federal act and for bond proceeds made available under this chapter. The state department shall not place a public water system on the priority list for project funding or enter into a contract and award a grant or loan if a supplier has previously received a grant for public water system expenditure for the same project under Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)) or if the supplier does not have a public water system permit pursuant to Section 116525 of the Health and Safety Code. The state department may place a public water system on the priority list for funding if a supplier has not otherwise received a letter of commitment to make a grant from the Administrator of the Environmental Protection Agency after 180 days from the date of the original submission of an application for a grant under Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)).

(c) The Legislature finds and declares that Indian tribes shall be encouraged to cooperate with an adjacent public water system to determine whether the delivery of water from the public water system to the Indian tribe would be feasible and cost-effective in comparison to the improvement of a public water system owned or operated by the Indian tribe. The determination of feasibility shall include an assessment of whether the tribal water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, potable water to consumers. The Legislature further finds and declares that public water suppliers shall be encouraged to investigate opportunities for Indian tribes to deliver water beyond trust land boundaries to consumers that may not be economically served by a public water system.

(d) The state department shall encourage loan or grant applicants, where feasible, to consider the consolidation of small public water systems and community water systems

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

with other public water systems to reduce the cost of service and improve the level of protection for consumers.

(e) To the extent that loans under this chapter that are made to a public water system regulated by the Public Utilities Commission bear a lower interest rate than that supplier could receive from nongovernmental sources, the Public Utilities Commission shall ensure that the entire benefit of the interest rate differential shall benefit the rate payers of that system by including the lower interest rate when establishing the water system's weighted average cost of capital.

#### **Section 79022.5. Repayment of loans**

Any repayment of loans made pursuant to this article, including interest payments, and all interest earnings on or accruing to, any money resulting from the implementation of this chapter in the Safe Drinking Water State Revolving Fund shall be deposited in that fund and shall be available for the purposes of this chapter.

#### **Section 79022.7. Prohibition of transfer of money**

Notwithstanding Item 4260-115-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999), no money transferred to the Safe Drinking Water State Revolving Fund pursuant to this article may be transferred to the General Fund.

#### **Section 79023. Establishment of the Technical Assistance Account**

There is hereby created in the Safe Drinking Water State Revolving Fund the Technical Assistance Account.

#### **Section 79024. Transfer of funds to Technical Assistance Account**

Of the funds transferred pursuant to Section 79021, the sum of two million dollars (\$2,000,000) is hereby transferred from the Safe Drinking Water State Revolving Fund to the Technical Assistance Account.

#### **Section 79025. Technical assistance to public water systems**

(a) Notwithstanding Section 13340 of the Government Code, the money in the Technical Assistance Account is hereby continuously appropriated, without regard to fiscal years, to the state department, to provide technical assistance to public water systems in the state in accordance with Section 300j-12(g)(2) of the federal act (42 U.S.C. Sec. 1452(g)(2)). For the purposes of this section, "technical assistance" includes assistance to disadvantaged communities, including Indian tribes.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(b) In carrying out its responsibilities under subdivision (a), the state department may do any of the following:

(1) Assess the technical, managerial, and financial capability of a disadvantaged community.

(2) Assist an applicant in the preparation of an application for funding under Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code or Section 300j-12(i) of the federal act (42 U.S.C. Sec. 1452(i)).

(3) Conduct workshops in locations in or near disadvantaged communities to provide information regarding grants or loans for the design and construction of projects for public water systems.

**Section 79026. Limits on administrative costs**

Not more than 3 percent of the total amount deposited in the account may be used to pay costs incurred in connection with the administration of this chapter.

**DIVISION 26.4. CALIFORNIA BAY-DELTA AUTHORITY ACT**

**CHAPTER 1. GENERAL PROVISIONS**

**ARTICLE 1. SHORT TITLE AND LEGISLATIVE FINDINGS**

**Section 79400. Title**

This division shall be known and may be cited as the California Bay-Delta Authority Act.

**Section 79401. Findings and Declarations**

The Legislature finds and declares all of the following:

(a) The San Francisco Bay/Sacramento-San Joaquin Delta Estuary is the largest estuary on the West Coast of the United States. It includes over 738,000 acres in five counties. The tributaries, sloughs, and islands support over 750 plant and animal species.

(b) The bay-delta, its tributaries, and watershed are critical to California's economy, supplying drinking water for two-thirds of Californians and irrigation water for over 7,000,000 acres of the most highly productive agricultural land in the world. It also supports 80 percent of the state's commercial salmon fisheries.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(c) The bay-delta is the hub of California's two largest water distribution systems--the Central Valley Project, operated by the federal Bureau of Reclamation and the State Water Project, operated by the California Department of Water Resources. It also provides the conveyance of flood waters from most of the rivers in the Central Valley.

(d) Conflicts currently exist regarding water use for the purposes of water quality, fish protection, and water supply that demonstrate how little flexibility the state's water supply systems have to meet the state's growing demand for water and the need to protect the environment.

(e) A solution to these problems requires state, federal, tribal, and local action in numerous regions throughout the state, not only in the bay-delta itself, but also in the bay-delta watershed and the areas that depend on water exported from the bay-delta. The California Bay-Delta Program is divided into the following five regions:

- (1) Sacramento and San Joaquin River Delta.
- (2) San Francisco Bay.
- (3) Sacramento Valley.
- (4) San Joaquin Valley.
- (5) Southern California.

(f) Nearly two dozen state and federal agencies have some role in managing or regulating the natural resources of the bay-delta and its watershed. A coordinated implementation structure and organization is necessary for the effective implementation of the California Bay-Delta Program. The state and federal agencies participating in the program include all of the following: the Resources Agency, Department of Water Resources, Department of Fish and Game, Department of Food and Agriculture, California Environmental Protection Agency, State Water Resources Control Board, State Department of Health Services, United States Department of the Interior, United States Department of Agriculture, United States Bureau of Reclamation, United States Fish and Wildlife Service, United States Geological Survey, United States Bureau of Land Management, United States National Marine Fisheries Service, United States Environmental Protection Agency, United States Army Corp of Engineers, United States Natural Resources Conservation Service, United States Forest Service, and Western Area Power Administration.

(g) The agencies participating in the California Bay-Delta Program have prepared a 30-year plan to coordinate existing programs and direct new programs to improve the quality and reliability of the state's water supplies and to restore the ecological health of the bay-delta watershed.

(h) To ensure efficiency, transparency, and accountability in decisionmaking, the implementation of the California Bay-Delta Program requires the establishment of an authority. The authority is intended to accomplish all of the following:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (1) Provide accountability to the Legislature, Congress, and interested parties for the program's performance.
  - (2) Promote the implementation of the program in a balanced manner.
  - (3) Provide consistent monitoring, assessment, and reporting of the agencies' individual and cumulative actions.
  - (4) Provide the use of sound, consistent science across all program elements.
  - (5) Coordinate existing and new government programs to meet common goals, avoid conflicts, and eliminate redundancy and waste.
  - (6) Oversee coordinated implementation of the California Bay-Delta Program in a manner that is consistent with the mission statement, goals, and objectives of the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, or as it may be amended.
  - (7) Promote the development and implementation of regional programs to advance the program elements.
- (i) The successful implementation of the California Bay-Delta Program will require the full cooperation and participation of many federal agencies. The Legislature, in adding this division, expects the subsequent enactment of federal legislation authorizing the full participation of federal agencies in the authority established and activities prescribed by this division. Until that federal legislation is enacted, federal agencies are invited to participate in the authority and its activities, as described in this division, to the extent possible under existing federal agency authorizations.

## CHAPTER 2. CALIFORNIA BAY-DELTA AUTHORITY

### ARTICLE 1. CALIFORNIA BAY-DELTA AUTHORITY

#### **Section 79410. Establishment of the Authority**

There is hereby established in the Resources Agency the California Bay-Delta Authority.

#### **Section 79412. Membership**

- (a) The authority shall include representatives from six state agencies and six federal agencies if those identified federal agencies are authorized to participate, seven public members, one member of the Bay-Delta Public Advisory Committee, and four nonvoting ex officio members, as follows:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (1) The Secretary of the Resources Agency.
  - (2) The Secretary of the California Environmental Protection Agency.
  - (3) The Director of Water Resources.
  - (4) The Director of Fish and Game.
  - (5) The State Director of Health Services.
  - (6) The Secretary of the Department of Food and Agriculture.
  - (7) The Secretary of the Interior.
  - (8) The Regional Administrator of Region IX of the United States Environmental Protection Agency.
  - (9) The Operations Manager of the California/Nevada Operations Office of the United States Fish and Wildlife Service.
  - (10) The Regional Director of the United States Mid-Pacific Region of the Bureau of Reclamation.
  - (11) The District Engineer of the United States Sacramento District of the Army Corp of Engineers.
  - (12) The Regional Administrator of the Southwest Region of the United States National Marine Fisheries Service.
  - (13) One public member from the Sacramento and San Joaquin River Delta Region.
  - (14) One public member from the San Francisco Bay Region.
  - (15) One public member from the Sacramento Valley Region.
  - (16) One public member from the San Joaquin Valley Region.
  - (17) One public member from the Southern California Region.
  - (18) One member of the Bay-Delta Public Advisory Committee.
  - (19) Two at-large members.
  - (20) The Chairperson and Vice Chairperson of the Assembly Water Parks and Wildlife Committee, or its successor, as a nonvoting, ex officio member.
  - (21) The Chairperson and Vice Chairperson of the Senate Agriculture and Water Resources Committee, or its successor, as a nonvoting, ex officio member.
- (b) The five public members subject to regional requirements shall be appointed by the Governor, in consultation with the Secretary of the Interior if appropriate federal authorizing legislation has not been enacted, or with the concurrence of the Secretary of the Interior if appropriate federal authorizing legislation has been enacted, and with the advice and consent of the Senate.
- (c) One at-large public member shall be appointed by the President Pro Tempore of the Senate in consultation with the Secretary of the Interior.
- (d) One at-large public member shall be appointed by the Speaker of the Assembly in consultation with the Secretary of the Interior.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(e) (1) For the purposes of being eligible to serve on the board, a public member described in any of the paragraphs (13) to (17), inclusive, of subdivision (a) shall be required to live in the region he or she represents.

(2) A public member shall have substantial training, expertise, and knowledge as follows:

(A) With regard to at least one of the following areas: ecosystem restoration, levees, water supply, or water quality.

(B) With regard to labor, Native American matters, local government, the environment, or business if that public member meets the requirements of subparagraph (A).

(f) The public members, as a group, shall reflect a broad range of the experience and knowledge described in subdivision (e).

(g) The representative of the Bay-Delta Public Advisory Committee shall be selected by a majority vote of all the members of that committee.

(h) A member of the authority described in any of the paragraphs (1) to (12), inclusive, of subdivision (a) may designate, in writing, a deputy director of that member's agency, or a person occupying an equivalent classification, to act in the place of that member if that member is absent.

(i) The federal representatives described in paragraphs (7) to (12), inclusive, of subdivision (a) may participate as nonvoting members until federal authorizing legislation is enacted and upon the enactment of that legislation, shall become voting members.

## ARTICLE 2. POWERS AND DUTIES

### **Section 79420. Powers**

The authority may exercise all of the following powers:

(a) Sue or be sued.

(b) Delegate administrative functions to the staff of the authority.

(c) Request reports from state, federal, and local government agencies on issues related to the implementation of the California Bay-Delta Program.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (d) Receive funds, including funds from private and local government sources, contributions from public and private sources, as well as state and federal appropriations.
- (e) Enter into contracts. The authority and the Department of General Services shall establish procedures to delegate authority to the authority or the director, as appropriate, to execute contracts of up to one million dollars (\$1,000,000), and to maximize flexibility and efficiency in implementing authority activities.
- (f) Disburse funds through grants, public assistance, loans, and contracts to entities, including federally recognized Indian tribes, within the Bay-Delta Program regions, as described in subdivision (e) of Section 79401, to carry out the Bay-Delta Program goals and objectives.
- (g) Employ the services of other public, nonprofit, or private entities.
- (h) Employ its own legal staff or contract with other state or federal agencies for legal services, or both. The authority may employ special legal counsel with the approval of the Attorney General.
- (i) Adopt regulations as needed for the implementation of this division. A federal representative may decline to participate in actions described in this subdivision if he or she identifies a constitutional or statutory limitation on that participation. The authority granted by this subdivision does not extend to the adoption of regulations to implement the program elements described in subdivisions (a) to (f), inclusive, and subdivision (h) of Section 79441.
- (j) Obtain and hold regulatory permits and prepare environmental documents.
- (k) Pursuant to Section 78684.8, the authority is hereby designated the successor to the Secretary of the Resources Agency for the purpose of carrying out the balancing and related procedures established pursuant to Section 78684.12.

#### **Section 79420. Powers**

- (a) The authority may exercise all of the following powers:
  - (1) Sue or be sued.
  - (2) Delegate administrative functions to the staff of the authority.
  - (3) Request reports from state, federal, and local government agencies on issues related to the implementation of the California Bay-Delta Program.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



(4) Receive funds, including funds from private and local government sources, and contributions from public and private sources, as well as state and federal appropriations.

(5) Enter into contracts consistent with existing contracting practices of the Department of General Services.

(6) Disburse funds through grants, public assistance, loans, and contracts to entities, including federally recognized Indian tribes, within the Bay-Delta Program regions, as described in subdivision (e) of Section 79401, to carry out the Bay-Delta Program goals and objectives.

(7) Employ the services of other public, nonprofit, or private entities.

(8) Employ its own legal staff or contract with other state or federal agencies for legal services, or both. The authority may employ special legal counsel with the approval of the Attorney General.

(9) Adopt regulations as needed for the implementation of this division. A federal representative may decline to participate in actions described in this subdivision if he or she identifies a constitutional or statutory limitation on that participation. The authority granted by this subdivision does not extend to the adoption of regulations to implement the program elements described in subdivisions (a) to (f), inclusive, and subdivision (h) of Section 79441.

(10) Obtain and hold regulatory permits and prepare environmental documents.

(11) Pursuant to Section 78684.8, the authority is hereby designated the successor to the Secretary of the Resources Agency for the purpose of carrying out the balancing and related procedures established pursuant to Section 78684.12.

(b) This section shall become operative only if this bill and Senate Bill 1653 of the 2001-02 Regular Session are both chaptered and become effective on or before January 1, 2003, and this bill is chaptered last, in which case this section shall prevail over Section 79420, as added by Senate Bill 1653.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 79421. Duties**

The authority shall carry out the following duties:

- (a) Develop policies and make decisions at program milestones, and provide direction to achieve balanced implementation, integration, and continuous improvement in all program elements.
- (b) Track the progress of all program projects and activities and assess overall achievement of the goals and objectives of the California Bay-Delta Program.
- (c) Modify, as needed, the California Bay-Delta Program's timelines and activities where the authority deems it necessary to ensure that the program meets its overall goals and objectives. Modification shall be coordinated with implementing agencies and other affected agencies with public input. The authority shall notify the appropriate policy and fiscal committees of the Legislature with regard to any modifications made by the authority.
- (d) Communicate with the Congress of the United States and the Legislature on program progress, answer legislative inquiries, review and respond to legislative proposals, and review and submit legislative proposals.
- (e) On or before November 15 of each year, review progress in implementing the program.
- (f) On or before December 15 of each year, submit a report to the Governor, the Secretary of the Interior, the Legislature, and the Congress of the United States that describes the status of implementation of all program elements for the prior fiscal year.
- (g) If, at the conclusion of each annual review submitted pursuant to subdivision (f), or, if a timely annual review has not been issued, the authority or the Governor, or the Secretary of the Interior if federal authorizing legislation has been enacted, determines, in writing, that either the program schedule or objective has not been substantially adhered to, the authority, in coordination with the Bay-Delta Public Advisory Committee, the Governor shall, and the Secretary of the Interior may, prepare a revised schedule that will achieve balanced progress in all program elements consistent with the intent of the California Bay-Delta Program and applicable regulatory requirements.
- (h) To support annual implementation, the director shall prepare and submit to the Department of Finance an annual state proposed budget, prepared consistent with Section 79423, for each of the program elements and the authority's oversight and coordination duties, in accordance with the annual State Budget process.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(i) Coordinate with federal agencies to develop a proposed federal budget to support the California Bay-Delta Program that the federal agencies can submit to the President of the United States in accordance with the annual federal budget process.

(j) Manage the science program element.

(k) Coordinate, and when appropriate, assist with the integration of, the Bay-Delta Program with other related programs to maximize available resources and reduce conflicts and inconsistencies with other programs.

(l) Provide a forum for the resolution of conflicts or disputes among implementing agencies relating to the program.

(m) Seek out and promote partnerships with local interests and programs that seek to integrate various water management options, and cooperate and undertake joint activities with other persons, including local entities, Indian tribes, water users, and landowners. These activities shall include, but are not limited to, planning, design, technical assistance, construction projects, and development of an independent science program.

(n) Develop, in cooperation with federal agencies, a regulatory coordination and streamlining process for the issuance of permits and approvals required under state and federal law as necessary, to achieve the program's goals and objectives that reduces or eliminates duplicative process.

(o) Adopt criteria for review, approval, and modification of annual program plans and projected expenditures pursuant to subdivision (i) of Section 79423. The criteria shall be consistent with existing state and federal agency budget development, review, and approval processes. The authority shall submit a copy of the criteria to the appropriate policy and fiscal committees of the Legislature.

(p) Meet jointly with the Bay-Delta Public Advisory Committee at least once annually.

### **Section 79423. Annual program plan and proposed budget**

(a) Implementing agencies shall annually submit to the authority their annual program plan and proposed budget for the following budget year describing how each implementing agency proposes to implement their respective program elements during the following budget year. These programs shall address environmental justice concerns and assess the impacts of projects and activities on tribal trust resources and tribal governmental concerns.

(b) Each annual program plan and proposed budget shall include programs that are designated as Category A programs in Attachment 3, entitled "Implementation

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

Memorandum of Understanding" of the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, or as it may be amended.

(c) Annually, the authority shall consult with the agencies identified in subdivision (f) of Section 79401 and the Bay-Delta Public Advisory Committee, and shall determine, with the concurrence of the implementing agencies, those changes that shall be made to the list of Category A programs.

(d) Each annual program plan and proposed budget shall include program priorities, work plans, proposed budgets, and significant program products, including, but not limited to, regulations, grant or loan solicitations, schedules for production of environmental documents, and project selection processes.

(e) Annual program plans and proposed budgets also shall include a strategy and proposed budget for addressing program-specific, critical scientific uncertainties, developing and implementing performance measures, evaluating program actions, developing strategies for incorporating tribal and environmental justice interests, and conducting scientific review of program implementation and proposed projects. The implementing agency and the director shall consult with the lead scientist, as appropriate, to determine an appropriate science strategy and proposed budget.

(f) Implementing agencies shall coordinate the preparation of annual program plans and proposed budgets with agencies participating in the California Bay-Delta Program, federally recognized Indian tribes, and other appropriate agencies.

(g) The implementing agencies and the director shall seek to integrate the annual plans and proposed budgets for the program elements into a comprehensive and balanced annual implementation plan.

(h) The implementing agencies shall develop comprehensive tribal and environmental justice work plans, including specific goals and objectives and projected expenditures that address all program areas.

(i) The authority shall review and approve, and, as appropriate, may recommend that implementing agencies modify, annual program plans and projected expenditures on behalf of Category A programs, based on the following criteria:

(1) Consistency with the program.

(2) The balanced achievement of the program's goals and objectives.

(j) If the authority does not approve an implementing agency's program plan or projected expenditures, the authority shall prepare and submit written findings to the appropriate policy and fiscal committees of the Legislature and the implementing agencies,

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

describing how the program plan or projected expenditures do not meet the criteria adopted by the authority pursuant to subdivision (o) of Section 79421.

(k) If the authority recommends modification, the implementing agency shall resubmit the annual program plan or projected expenditures, as appropriate, to the authority for approval after making the necessary modifications.

(l) Nothing in this division limits or interferes with the final decisionmaking authority of the implementing agencies.

### **Section 79423. Program plan and budget**

(a) The implementing agencies shall annually submit to the director their annual program plan and proposed budget for the following budget year describing how each implementing agency proposes to implement their respective program elements during the following budget year. The director shall then submit a comprehensive budget proposal to the Secretary of the Resources Agency for consideration consistent with the existing budget development process. Individual departmental budget requests are exempt from the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). These programs shall also address environmental justice concerns and assess the impacts of projects and activities on tribal trust resources and tribal governmental concerns.

(b) Each annual program plan and proposed budget shall include programs that are designated as Category A programs in Attachment 3, entitled "Implementation Memorandum of Understanding" of the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, or as it may be amended.

(c) Annually, the authority shall consult with the agencies identified in subdivision (f) of Section 79401 and the Bay-Delta Public Advisory Committee, and shall determine, with the concurrence of the implementing agencies, those changes that shall be made to the list of Category A programs.

(d) Each annual program plan and proposed budget shall include program priorities, work plans, proposed budgets, and significant program products, including, but not limited to, regulations, grant or loan solicitations, schedules for production of environmental documents, and project selection processes.

(e) Annual program plans and proposed budgets also shall include a strategy and proposed budget for addressing program-specific, critical scientific uncertainties, developing and implementing performance measures, evaluating program actions, developing strategies for incorporating tribal and environmental justice interests, and conducting scientific review of program implementation and proposed projects. The

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

implementing agency and the director shall consult with the lead scientist, as appropriate, to determine an appropriate science strategy and proposed budget.

(f) The implementing agencies shall develop comprehensive tribal and environmental justice work plans, including specific goals and objectives and projected expenditures that address all program areas.

(g) The implementing agencies shall coordinate the preparation of annual program plans and proposed budgets with agencies participating in the California Bay-Delta Program, federally recognized Indian tribes, and other appropriate agencies.

(h) The implementing agencies and the director shall seek to integrate the annual plans and proposed budgets for the program elements into a comprehensive and balanced annual implementation plan.

(i) Annually, the authority shall review and approve, and, as appropriate, may recommend that implementing agencies modify, multiyear program plans and long-term expenditure plans on behalf of Category A programs, based on the following criteria:

(1) Consistency with the program.

(2) The balanced achievement of the program's goals and objectives.

(j) If the authority does not approve an implementing agency's multiyear program plan and long-term expenditure plan, the authority shall prepare and submit written findings to the appropriate policy and fiscal committees of the Legislature and the implementing agencies, describing how the multiyear program plan and long-term expenditure plan do not meet the criteria adopted by the authority pursuant to subdivision (o) of Section 79421.

(k) If the authority recommends modification to implementation of the Budget Act for the current fiscal year or the multiyear program plan and long-term expenditure plan, the implementing agency shall resubmit the Budget Act implementation plan, the multiyear plan, or the long-term expenditure plan, as appropriate, to the authority for approval. If an implementing agency makes any of the modifications recommended by the authority, the authority shall submit these modifications to the Legislature.

(l) Nothing in this division limits or interferes with the final decisionmaking authority of the implementing agencies.

(m) This section shall become operative only if this bill and Senate Bill 1653 of the 2001-02 Regular Session are both chaptered and become effective on or before January 1,

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

2003, and this bill is chaptered last, in which case this section shall prevail over Section 79423, as added by Senate Bill 1653.

### ARTICLE 3. LIMITATIONS ON POWERS AND DUTIES

#### **Section 79440. Implementing agency**

For the purposes of this division, "implementing agency" includes those state agencies identified in Section 79441 until the United States, by statute or otherwise, has authorized the identified federal agencies to participate in the governance and implementation of the Bay-Delta Program in the manner set forth in this division. Until that federal authorization has been provided, the state implementing agencies shall consult, cooperate, and coordinate with federal agencies in all matters related to implementation of the program.

#### **Section 79441. Implementing agencies for program elements**

(a) The department, the Department of Fish and Game, and the United States Army Corps of Engineers are the implementing agencies for the levee program element.

(b) The state board, the United States Environmental Protection Agency, and the State Department of Health Services are the implementing agencies for the water quality program element.

(c) The Department of Fish and Game, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the ecosystem restoration program element. If interests in land, water, or other real property are acquired, those interests shall be acquired from willing sellers by means of entering into voluntary agreements.

(d) The department and the United States Bureau of Reclamation are the implementing agencies for the water supply reliability, storage, and conveyance elements of the program.

(e) The department, the state board, and the United States Bureau of Reclamation are the implementing agencies for the water use efficiency and water transfer program elements.

(f) The Resources Agency, the state board, the department, the Department of Fish and Game, the United States Natural Resources Conservation Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service are the implementing agencies for the watershed program element.

(g) The authority is the implementing agency for the science program element.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(h) The department, the Department of Fish and Game, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the environmental water account program element.

## **DIVISION 26.5. WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002**

### **CHAPTER 1. GENERAL PROVISIONS**

#### **Section 79500. Title**

This division shall be known and may be cited as the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.

#### **Section 79501. Findings and declarations**

The people of California find and declare that it is necessary and in the public interest to do all of the following:

- (a) Secure and safeguard the integrity of the state's water supply from catastrophic damage or failure from terrorist acts or other deliberate acts of destruction.
- (b) Provide a safe, clean, affordable, and sufficient water supply to meet the needs of California residents, farms, and businesses.
- (c) Provide adequate financing for balanced implementation of the CALFED Bay-Delta Program to:
  - (1) Provide good water quality for all beneficial uses.
  - (2) Improve and increase aquatic and terrestrial habitats and improve ecological functions in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary to support sustainable populations of diverse plant and animal species.
  - (3) Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system.
  - (4) Reduce the risk to land uses and associated economic activities, water supply, infrastructure, and ecosystems from catastrophic breaching of Delta levees.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



(d) Establish and facilitate integrated regional water management systems and procedures to meet increasing water demands due to significant population growth that is straining local infrastructure and water supplies.

(e) Improve practices within watersheds to improve water quality, reduce pollution, capture additional storm water runoff, protect and manage groundwater better, and increase water use efficiency.

(f) Protect urban communities from drought, increase supplies of clean drinking water, reduce dependence on imported water, reduce pollution of rivers, lakes, streams, and coastal waters, and provide habitat for fish and wildlife.

(g) Invest in projects that further the ability of all Californians to live within California's basic apportionment of 4.4 million acre-feet per year of Colorado River water pursuant to the Colorado River Water Use Plan.

(h) Protect, restore, and acquire beaches and coastal uplands, wetlands, and watershed lands along the coast and in San Francisco Bay to protect the quality of drinking water, to keep beaches and coastal waters safe from water pollution, and to provide the wildlife and plant habitat and riparian and wetlands areas needed to support functioning coastal and San Francisco Bay ecosystems for the benefit of the people of California.

#### **Section 79502. Regional and local officials implementation intent**

It is the intent of the people in enacting this division that it be administered and executed in the most expeditious manner possible, and that all state, regional and local officials implement this division to the fullest extent of their authority.

#### **Section 79503. Security and safety intent**

It is the intent of the people that water facility projects financed pursuant to this division shall be designed and constructed so as to improve the security and safety of the state's drinking water system.

#### **Section 79504. Public benefit intent**

It is the intent of the people that investment of public funds pursuant to this division should result in public benefits.

#### **Section 79505. Definitions**

As used in this division, the following terms shall have the following meanings:

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (a) "Acquisition" means the acquisition of a fee interest or any other interest, including easements, leases, and development rights.
- (b) "Board" means the State Water Resources Control Board.
- (c) "CALFED" means the consortium of state and federal agencies with management and regulatory responsibilities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.
- (d) "CALFED Bay-Delta Program" means the undertaking by CALFED to develop and implement, by means of the final programmatic environmental impact statement/environmental impact report, the preferred programs, actions, projects, and related activities that will provide solutions to identified problem areas related to the San Francisco Bay/Sacramento-San Joaquin Delta Estuary ecosystem, including but not limited to the Bay-Delta and its tributary watersheds.
- (e) "Department" means the Department of Water Resources.
- (f) "Fund" means the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 created pursuant to Section 79510.
- (g) "Nonprofit organization" means any nonprofit corporation formed pursuant to the Nonprofit Public Benefit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) and qualified under Section 501(c)(3) of the United States Internal Revenue Code.
- (h) "Secretary" means the Secretary of the Resources Agency.
- (i) "Wetlands" means lands that may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

#### **Section 79505.5. Definitions**

As used in this division, the following terms shall have the following meanings:

- (a) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.
- (b) "Matching funds" means funds made available by nonstate sources, which may include, but are not limited to, donated services from nonstate sources.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 79505.6. Project solicitation and evaluation guidelines**

(a) (1) By March 15, 2004, each state agency disbursing grants or loans pursuant to this division shall develop project solicitation and evaluation guidelines. The guidelines may include a limitation on the size of grants or loans to be awarded.

(2) Prior to disbursing grants, each state agency shall conduct two public meetings to consider public comments prior to finalizing the guidelines. Each state agency shall publish the draft solicitation and evaluation guidelines on its Internet Web site at least 30 days before the public meetings. One meeting shall be conducted at a location in northern California and one meeting shall be conducted at a location in southern California. Upon adoption, each state agency shall transmit copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature. To the extent feasible, each state agency shall provide outreach to disadvantaged communities to promote access and participation in those meetings.

(3) (A) Subject to subparagraph (B), the guidelines may include a requirement for matching funds.

(B) A state agency may not require matching funds for the purposes of awarding a grant financed by this division to assist a disadvantaged community, except as follows:

(i) For the purposes of awarding a grant pursuant to subdivision (a) of Section 79545, the department shall impose matching fund requirements in accordance with subdivision (a) of Section 79545.

(ii) For the purposes of awarding a grant subject to Section 79564, the board shall impose matching fund requirements in accordance with subdivision (b) of Section 79564.

(b) Notwithstanding subdivision (a), a state agency, in lieu of adopting guidelines pursuant to subdivision (a), may use guidelines existing on January 1, 2004, to the extent those guidelines conform to the applicable requirements of this division.

**Section 79506. Requirement for CEQA compliance**

Every proposed activity to be financed pursuant to this division shall be in compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) of the Public Resources Code.

**Section 79506.7. Technical assistance**

State agencies that are authorized to award loans or grants financed by this division shall provide technical assistance with regard to the preparation of the applications for those

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

loans or grants in a manner that, among other things, addresses the needs of economically disadvantaged communities.

**Section 79507. Consistency with local plans**

Watershed protection activities financed pursuant to this division shall be consistent with the applicable adopted local watershed management plan and the applicable regional water quality control plan adopted by the regional water quality control board.

**Section 79508. Protection activities in the San Gabriel and Los Angeles River watersheds**

Watershed protection activities in the San Gabriel and Los Angeles River watersheds shall be consistent with the San Gabriel and Los Angeles River Watershed and Open Space Plan as adopted by the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and the Santa Monica Mountains Conservancy. Notwithstanding any other provision of law, this plan shall be implemented pursuant to Division 23 (commencing with Section 33000) of the Public Resources Code in the watershed of the Los Angeles River upstream of the northernmost boundary of the City of Vernon and pursuant to Division 22.8 (commencing with Section 32600) of the Public Resources Code in the San Gabriel River and in the lower Los Angeles River watershed.

**Section 79509. Implementation through local and regional programs**

Except for projects financed pursuant to Chapter 6 (commencing with Section 79545) or Chapter 10 (commencing with Section 79570), to be eligible to be financed pursuant to this division, any project that will wholly or partially assist in the fulfillment of one or more of the goals of the CALFED Bay-Delta Program shall be consistent with the CALFED Programmatic Record of Decision, and shall be implemented, to the maximum extent possible, through local and regional programs.

**CHAPTER 3. WATER SECURITY**

**79520. Funds for water security**

The sum of fifty million dollars (\$50,000,000) shall be available for appropriation by the Legislature from the fund for the purpose of protecting state, local, and regional drinking water systems from terrorist attack or deliberate acts of destruction or degradation. This money may be expended or granted for monitoring and early warning systems, fencing, protective structures, contamination treatment facilities, emergency interconnections, communications systems, and other projects designed to prevent damage to water treatment, distribution, and supply facilities, to prevent disruption of drinking water deliveries, and to protect drinking water supplies from intentional contamination.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 79522. Funds made available to DHS**

(a) Funds made available pursuant to Section 79520 shall be appropriated to the State Department of Health Services to carry out this chapter consistent with the requirements and for the purposes specified in Section 79520.

(b) In the development of priorities for expenditure of the funds appropriated for the purposes of this section, the State Department of Health Services shall consult with the Office of Emergency Services, the state Office of Homeland Security and local water agencies to develop criteria for the department's programs.

(c) Funds allocated pursuant to this section shall not be available for grants that reimburse project costs incurred prior to the adoption of criteria for the grants provided in this section.

(d) No grant funds may be awarded to supplant funding for the routine responsibilities or obligations of any state, local, or regional drinking water system.

**CHAPTER 4. SAFE DRINKING WATER**

**Section 79530. Availability of funds**

(a) The sum of four hundred thirty-five million dollars (\$435,000,000) shall be available for appropriation by the Legislature from the fund to the State Department of Health Services for grants and loans for infrastructure improvements and related actions to meet safe drinking water standards including, but not limited to, the following types of projects:

(1) Grants to small community drinking water systems to upgrade monitoring, treatment, or distribution infrastructure.

(2) Grants to finance development and demonstration of new technologies and related facilities for water contaminant removal and treatment.

(3) Grants for community water quality monitoring facilities and equipment.

(4) Grants for drinking water source protection.

(5) Grants for treatment facilities necessary to meet disinfectant by-product safe drinking water standards.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(6) Loans pursuant to the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104 of the Health and Safety Code).

(b) Not less than 60 percent of the money appropriated pursuant to this section shall be available for grants to Southern California water agencies to assist in meeting the state's commitment to reduce Colorado River water use to 4.4 million acre feet per year.

**Section 79532. Administration of funds to Southern California water agencies**

(a) Funds made available pursuant to subdivision (b) of Section 79530 shall be administered in accordance with this section.

(b) (1) Grant funds appropriated for the purposes of subdivision (b) of Section 79530 shall be awarded on a competitive basis.

(2) The department shall consolidate the application process required to implement the grant program described in this section.

(c) For the purposes of this chapter, "Southern California water agencies" means water agencies whose service area is entirely or partly in one or more of the following counties: San Diego, Imperial, Riverside, Orange, Los Angeles, San Bernardino, Santa Barbara, or Ventura.

(d) Grants may be awarded to Southern California water agencies for eligible projects undertaken by one or more Southern California water agencies and other entities.

(e) A project funded by a grant made pursuant to subdivision (b) of Section 79530 shall meet both of the following requirements:

(1) The project will assist the grantee to meet safe drinking water standards.

(2) The project will assist in meeting the state's commitment to reduce Colorado River water use to 4.4 million acre-feet per year.

(f) In the development of criteria for the grants awarded pursuant to this section, the State Department of Health Services shall consult with the Office of Environmental Health Hazard Assessment for the purposes of developing a program that gives priority to projects that reduce public and environmental exposure to contaminants that pose the most significant health risks, and that will bring water systems into compliance with safe drinking water standards. These include, but are not limited to, projects that address public exposure to contaminants for which safe drinking water standards have been established, including arsenic, disinfection byproducts and uranium. Projects to

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

address emerging contaminants, including perchlorate, chromium 6, and endocrine disrupters shall also be given priority.

**Section 79534. Administration of funds**

(a) Funds made available pursuant to paragraph (1), (2), (3), (4), or (5) of subdivision (a) of Section 79530, and not for the purposes of subdivision (b) of that section, shall be administered in accordance with this section.

(b) (1) Grants shall be awarded in accordance with subdivision (a) of Section 79530 on a statewide competitive basis.

(2) A project that is eligible for funding for the purposes of subdivision (b) of Section 79530 is not eligible for a grant subject to this section.

(c) For the purposes of this chapter, "small community" means a municipality with a population of 3,300 persons or fewer, or 1,000 connections or fewer.

(d) The State Department of Health Services shall consolidate the application process required to implement the grant program described in this section.

(e) In the development of criteria for the grants awarded under this section, the State Department of Health Services shall consult with the Office of Environmental Health Hazard Assessment for the purpose of developing a program that gives priority to projects that pose the most significant health risks, and that will bring water systems into compliance with safe drinking water standards. These include, but are not limited to, projects that address public exposure to contaminants for which safe drinking water standards have been established, including arsenic, disinfection byproducts and uranium. Projects to address emerging contaminants, including perchlorate, chromium 6, and endocrine disrupters shall also be given priority.

(f) Grants awarded pursuant to this section may not exceed ten million dollars (\$10,000,000) for any one project.

**CHAPTER 5. CLEAN WATER AND WATER QUALITY**

**Section 79540. Funding for competitive grants**

(a) The sum of one hundred million dollars (\$100,000,000) shall be available for appropriation by the Legislature from the fund to the board for competitive grants for the following purposes:

(1) Water pollution prevention.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (2) Water reclamation.
- (3) Water quality improvement.
- (4) Water quality blending and exchange projects.
- (5) Drinking water source protection projects.
- (6) Projects to mitigate pathogen risk from recreational uses at drinking water storage facilities.

(b) Priority shall be given to projects that assist in meeting water quality standards established by the board.

(c) The Legislature may enact such legislation as is necessary to implement this section.

#### **Section 79540.1. Requirements**

(a) Grants shall be awarded in accordance with Section 79540 on a statewide competitive basis.

(b) To the extent funds appropriated pursuant to Section 79540 are expended for the purposes of programs established under Division 20.4 (commencing with Section 30901) of the Public Resources Code, those funds shall comply with the requirements of that division.

#### **Section 79541. River parkways**

The sum of one hundred million dollars (\$100,000,000) shall be available for appropriation by the Legislature from the fund to the secretary for the acquisition from willing sellers, restoration, protection, and development of river parkways. The secretary shall allocate this money in accordance with Article 6 (commencing with Section 78682) of Chapter 6 of Division 24 or pursuant to any other statute that provides for the acquisition, restoration, protection, and development of river parkways. Priority shall be given to projects that are implemented pursuant to approved watershed plans and include water quality and watershed protection benefits. This money may also be used to acquire facilities necessary to provide flows to improve water quality downstream.

#### **Section 79542. Lake Tahoe**

The sum of forty million dollars (\$40,000,000) shall be available for appropriation by the Legislature from the fund to the California Tahoe Conservancy for acquisition from willing sellers, restoration, and protection of land and water resources to improve water quality in Lake Tahoe.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*



**Section 79543. Coastal waters, estuaries, bays and near-shore waters, and groundwater**

The sum of one hundred million dollars (\$100,000,000) shall be available for appropriation by the Legislature from the fund to the board for the purpose of financing projects that restore and protect the water quality and environment of coastal waters, estuaries, bays and near-shore waters, and groundwater. All expenditures, grants, and loans made pursuant to this section shall be consistent with the requirements of Article 5 (commencing with Section 79148) of Chapter 7 of Division 26. Not less than twenty million dollars (\$20,000,000) shall be expended to implement priority actions specified in the Santa Monica Bay Restoration Plan. Money made available pursuant to this section shall supplement, not supplant, money appropriated or available pursuant to that Article 5 (commencing with Section 79148), and no money appropriated pursuant to this section shall be used for a project for which an appropriation was made pursuant to that Article 5 (commencing with Section 79148).

**Section 79544. Local agencies and non-profit organizations**

The sum of thirty million dollars (\$30,000,000) shall be available for appropriation by the Legislature from the fund to the secretary for the purpose of grants to local public agencies, local water districts, and nonprofit organizations for acquisition from willing sellers of land and water resources to protect water quality in lakes, reservoirs, rivers, streams and wetlands in the Sierra Nevada-Cascade Mountain Region as defined in Section 5096.347 of the Public Resources Code.

**CHAPTER 6. CONTAMINANT AND SALT REMOVAL TECHNOLOGIES**

**Section 79545. Funding for projects**

The sum of one hundred million dollars (\$100,000,000) shall be available for appropriation by the Legislature from the fund to the department for grants for the following projects:

(a) Desalination of ocean or brackish waters. Not less than fifty million dollars (\$50,000,000) of the money appropriated by this chapter shall be available for desalination projects. To be eligible to receive a grant, at least 50 percent of the total cost of the project shall be met by matching funds or donated services from non-state sources.

(b) Pilot and demonstration projects for treatment or removal of the following contaminants:

- (1) Petroleum products, such as MTBE and BTEX.
- (2) N-Nitrosodimethylamine (NDMA).
- (3) Perchlorate.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

- (4) Radionuclides, such as radon, uranium, and radium.
- (5) Pesticides and herbicides.
- (6) Heavy metals, such as arsenic, mercury, and chromium.
- (7) Pharmaceuticals and endocrine disrupters.

(c) Drinking water disinfecting projects using ultraviolet technology and ozone treatment.

#### **Section 79547. Funds and Grants**

(a) Funds made available pursuant to Section 79545 shall be administered in accordance with this section.

(b) Grants shall be awarded in accordance with Section 79545 on a statewide competitive basis.

#### **Section 79547.2. Project Eligibility**

(a) For the purposes of implementing subdivision (a) of Section 79545, eligible projects shall be selected based on demonstrated need for new or alternative water supplies, project readiness, and the degree to which the project avoids or mitigates adverse environmental impacts. Preference shall be given to eligible projects that incorporate ecosystem restoration and water quality benefits.

(b) A grant made pursuant to subdivision (a) of Section 79545 may not exceed five million dollars (\$5,000,000).

(c) For the purposes of this section, "desalination project" includes construction, planning, engineering, design, environmental assessments, or related work necessary for the construction of a desalination facility, or the construction of a pilot or demonstration facility.

#### **Section 79555. Expenditure of funds for long-term water purchase contracts, permanent water rights**

(a) For the 2004-05 fiscal year, and each fiscal year thereafter, not less than 50 percent of the funds made available pursuant to subdivision (d) of Section 79550 for acquisition of water for the CALFED environmental water account shall be expended for long-term water purchase contracts, permanent water rights, and associated costs.

(b) The California Bay-Delta Authority shall report annually to the Legislature on the state's efforts in acquiring long-term purchase contracts and permanent water rights in accordance with this section.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

## **Section 79560. Amount of funding for grants; limitations on projects**

The sum of five hundred million dollars (\$500,000,000) shall be available for appropriation by the Legislature from the fund for competitive grants for projects set forth in this section to protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water. No project financed pursuant to this section shall include an on-stream surface water storage facility or an off-stream surface water storage facility other than percolation ponds for groundwater recharge in urban areas. No river or stream channel modification project whose construction or operation causes any negative environmental impacts may be financed pursuant to this chapter unless those impacts are fully mitigated.

### **79560.1. Distribution of funds**

(a) The department shall administer 50 percent of the funds, and the board shall administer the remaining 50 percent of the funds, made available to the program described in Sections 79560 and 79561.

(b) For projects proposed to be funded pursuant to Section 79560 that include any modification of a river or stream channel, the state agency making the grant, prior to the award of the grant, shall determine whether the environmental impacts resulting from that modification will be fully mitigated by considering all of the impacts of that modification and any mitigation, environmental enhancement, and environmental benefit resulting from the project, and determining whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the project. The costs of mitigation or enhancement may be included in the project costs eligible for funding pursuant to Section 79560.

(c) This section shall become operative only if the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 is approved by the voters at the November 5, 2002, statewide general election.

### **Section 79560.5. Solicitation and evaluation guidelines**

For the purposes of carrying out this chapter, the department and the board shall jointly develop project solicitation and evaluation guidelines. Before developing the solicitation and evaluation guidelines, the department and the board shall jointly conduct a public meeting to receive public comments on the scope, procedures, and content of the guidelines. Considering the public comments, the department and the board shall jointly develop solicitation and evaluation guidelines that are consistent with law and state programs and policies. The department and the board shall post the solicitation and evaluation guidelines on their respective Internet Web sites.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 79561. Project descriptions**

Money appropriated in Section 79560 shall be available for grants for water management projects that include one or more of the following elements:

- (a) Programs for water supply reliability, water conservation, and water use efficiency.
- (b) Storm water capture, storage, treatment, and management.
- (c) Removal of invasive non-native plants, the creation and enhancement of wetlands, and the acquisition, protection, and restoration of open space and watershed lands.
- (d) Non-point source pollution reduction, management, and monitoring.
- (e) Groundwater recharge and management projects.
- (f) Contaminant and salt removal through reclamation, desalting, and other treatment technologies.
- (g) Water banking, exchange, reclamation, and improvement of water quality.
- (h) Planning and implementation of multipurpose flood control programs that protect property; and improve water quality, storm water capture and percolation; and protect or improve wildlife habitat.
- (i) Watershed management planning and implementation.
- (j) Demonstration projects to develop new drinking water treatment and distribution methods.

**Section 79561.5. Funding for groundwater management and recharge projects**

- (a) Notwithstanding any other provision of law, of the funds appropriated to the department for the purposes of Section 79560 and 79560.1, the department shall allocate the sum of not less than twenty million dollars (\$20,000,000) to competitive grants for groundwater management and recharge projects. The department shall not allocate funds pursuant to this section unless it determines that the allocation is consistent with this division, as approved by the voters at the November 5, 2002, statewide general election.
- (b) It is the intent of the Legislature that these funds be used to enhance water supply in rapidly growing areas of this state with limited access to imported water supplies.
- (c) Not more than 50 percent of the grants pursuant to this section shall be for projects in northern California. For projects in southern California, the department shall give

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

preference to projects outside the service area of the Metropolitan Water District of Southern California that are infill projects within one mile of established residential and commercial development.

(d) As used in this section, the term "rapidly growing areas" means counties located in southern California where the county population increased by 2.4 percent or more between January 1, 2002, and January 1, 2003.

**Section 79562. Appropriation for statewide groundwater monitoring**

An amount, not to exceed 10 percent of the money available for appropriation in Section 79560, may be appropriated by the Legislature for facilities, equipment, and other expenses associated with the establishment of comprehensive statewide groundwater monitoring pursuant to Part 2.76 (commencing with Section 10780) of Division 6.

**Section 79562.5. Awards to projects with an adopted integrated regional water management plan**

(a) For the purposes of carrying out Section 79560, the department shall award grants to eligible projects consistent with an adopted integrated regional water management plan.

(b) For purposes of subdivision (a), the department shall establish standards for integrated regional water management plans. At a minimum, these plans shall address the major water related objectives and conflicts of the watersheds in the region covered by the plan, including water supply, groundwater management, ecosystem restoration, and water quality elements, and may include other elements consistent with this chapter.

(c) The department may waive the requirement for consistency with an adopted integrated regional water management plan until January 1, 2007, if the applicant is engaged in the development of an integrated regional water management plan and indicates, within its grant application, how the project fits into achieving the integrated regional water management plan objectives.

(d) The department may waive the matching fund requirement for disadvantaged communities.

(e) For groundwater management and recharge projects and for projects with potential groundwater impacts, the board and the department shall give preference to eligible projects in areas subject to a groundwater management plan that meets the requirements of Section 10753.7, or that includes the development of a groundwater management plan as a project component.

(f) The maximum award for any single grant pursuant to this section may not exceed fifty million dollars (\$50,000,000).

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

(g) The department shall require that eligible projects include a nonstate contribution.

(h) For the purposes of implementing Section 79563, and to the extent funds are expended for the purposes of Section 30947 of the Public Resources Code, those funds shall comply with the requirements of that section.

### **Section 79563. Appropriate of funds to the Board**

At least 50 percent of the amount available for appropriation in Section 79560 shall be appropriated to the board. The board shall establish procedures for selecting among eligible projects specified in Section 79561 that use the procedures developed by the board for stakeholder-based accelerated selection and contracting pursuant to Section 79104.32.

### **Section 79564. Eligibility**

To be eligible for financing pursuant to Section 79563, a project shall meet both of the following criteria:

(a) The project is consistent with an adopted integrated water management plan designed to improve regional water supply reliability, water recycling, water conservation, water quality improvement, storm water capture and management, flood management, recreation and access, wetlands enhancement and creation, and environmental and habitat protection and improvement.

(b) The project includes matching funds or donated services from non-state sources.

### **Section 79564.1. Distribution of funds to northern and southern California**

(a) Of the funds made available by Section 79560, not less than 40 percent shall be available for eligible projects in northern California and not less than 40 percent be available for eligible projects in southern California, subject to a determination by the administering agency that each project meets all of the requirements of this chapter.

(b) For the purposes of this section, "southern California" means the Counties of San Diego, Imperial, Riverside, Orange, Los Angeles, Santa Barbara, San Bernardino, and Ventura.

(c) For the purposes of this section, "northern California" means all California counties except those identified in subdivision (b).

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*

**Section 79565. Amount of funds**

Notwithstanding Section 13340 of the Government Code, the sum of one hundred forty million dollars (\$140,000,000) is hereby continuously appropriated from the fund to the Wildlife Conservation Board, without regard to fiscal years, for expenditure by the board and for grants, for the acquisition from willing sellers of land and water resources, including the acquisition of conservation easements, to protect regional water quality, protect and enhance fish and wildlife habitat, and to assist local public agencies in improving regional water supply reliability.

**CHAPTER 10.5 REPORTING**

**Section 79575. Annual reports**

Not later than January 1, 2005, and on or before January 1 of each year thereafter, each state agency expending funds pursuant to this division for projects, grants, or loans shall report to the Legislature on the recipient and amount of each project, grant, or loan awarded under this division during the previous fiscal year. The information shall include the total amount awarded, categorized by project, grant, or loan, the geographic distribution of projects, grants, or loans awarded under this division, and the intended public and environmental benefit that the awards provide. The information shall also include data on the balances of funds available under this division for expenditures and grants in that fiscal year and future fiscal years.

**CHAPTER 11 FISCAL PROVISIONS**

**Section 79590. Cost of bond issuance**

Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded under this division. Actual costs incurred in connection with administering programs authorized under the categories specified in this division shall be paid by the funds authorized for those purposes by this division.

*DISCLAIMER: This document is prepared as an aid to staff of the DHS Drinking Water Program and cannot be relied upon by the regulated community as the State of California's representation of the law. The published codes are the only official representation of the law.*